

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-7701-2022 (O&M)
Date of Decision: 16.05.2022**

Sukhvir Singh @ SukhiPetitioner

Versus

State of Punjab & anotherRespondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Karan Bhardwaj, Advocate, for the petitioner.
Mr. Luvinder Sofat, AAG, Punjab, assisted by SI Ranjeet Singh.
Mr. Sant Pal Singh Sidhu, Advocate and Mr. Gurpal Singh Sandhu, Advocate, for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner has challenged order dated 03.12.2021 (Annexure P-3) passed by the learned Area Magistrate, Faridkot, dismissing an application moved by prosecution for release of accused Sukhvir Singh, Yadwinder Singh and Gurmukh Singh from custody as consequent upon further investigation they had been found innocent and supplementary report u/s 173(8) Cr.P.C. dated 2.12.2021 (Annexure P-2) to this effect had been filed by prosecution. Challenge has also been made to order dated 2.2.2022(Annexure P-6) passed by learned Sessions Judge, Faridkot, vide which a revision preferred by petitioner and two others against order dated 3.12.2021(Annexure P-3) has been dismissed.
2. The matter in hand arises out of FIR No.0124 dated 17.08.2021, lodged at Police Station, Sadar Kotkapura, District Faridkot, under Sections 302, 307,

341, 427, 506, 148, 149, 120-B IPC and Sections 25, 27, 54, 59 of the Arms Act (Sections 323 & 324 IPC added later on). The said FIR was lodged at the instance of Surinder Kaur pertaining to murder of her son Navjot Singh, wherein she stated that that her '*Nanad*' (husband's sister) namely Gurjinder Kaur was married to Balwinder Singh. However, said Gurjinder Kaur expired in the year 1996 and after her death, Balwinder Singh started residing with Iqbal Kaur as her husband. Later, a dispute arose amongst them (Iqbal Kaur and Balwinder Singh) over money and property as a result of which Balwinder Singh and Iqbal Kaur started residing separately and some litigation was also pending amongst them. It is alleged that Iqbal Kaur with the help of her '*Jija*' (sister's husband) namely Anantdeep Singh took possession of Balwinder Singh's house regarding which Balwinder Singh got a case registered at Police Station NRI, Moga. It is alleged that on 17.08.2021, in order to pursue the said case of Balwinder Singh, she (complainant) alongwith Balwinder Singh, her son Navjot Singh @ Navi and one of their relatives Mandeep Singh @ Babbu proceeded from Sri Muktsar Sahib to Moga, in their car bearing registration No.DL-10-CF-0120. While they were on their way, a black coloured 'Scorpio' vehicle, two 'Thar' vehicles, one 'Innova' vehicle and one more vehicle tried to surround their car. Complainant's son, who was driving the car, took the car towards a narrow link road and on account of the narrow road the vehicles following them could not overtake them, but the Scorpio vehicle following their car kept on banging into rear of their car and also started firing upon them with an intention to kill them. However, when they (complainant party) approached the main road, the said vehicles were able to surround their car. It is alleged that Anantdeep Singh @ Roma, who was armed with a rod alongwith 15/20 unidentified persons alighted from the said vehicles

carrying hockey sticks, baseball bats, rods, swords etc. Anantdeep Singh pulled out complainant's son Navjot Singh @ Navi from the car and exhorted his companions to teach him a lesson for not giving land to his sister-in-law Iqbal Kaur. Anantdeep Singh gave several blows with the help of rod on legs and arms of the complainant's son. The other persons also inflicted injuries to the complainant's son with their respective weapons and also fired shots. It is alleged that when complainant's brother-in-law Balwinder Singh and Mandeep Singh tried to rescue Navjot Singh, the accused inflicted injuries to Balwinder Singh and Mandeep Singh as well. Navjot Singh on account of injuries sustained by him fell unconscious. The accused thereafter went away from the spot in their respective vehicles. Navjot Singh was taken to Civil Hospital, Kotkapura from where he was referred to Guru Gobind Singh Medical College, Faridkot, but he succumbed to his injuries. The complainant has alleged that the accused nursed a grudge against the complainant, her son Navjot Singh (deceased) and Mandeep Singh, as they had been pursuing and supporting Balwinder Singh, in the cases pertaining to property, which were pending between Balwinder Singh and Iqbal Kaur. It is alleged that Iqbal Kaur and Sukhi Rajana had conspired and had connived with Anantdeep Singh and with the help of others, they had murdered her son.

3. As noticed in FIR, while petitioner is amongst the three accused named in FIR, he is not specifically stated to be amongst the 15-20 assailants. He is alleged to be a conspirator. The police was able to arrest 7 of the accused and upon finding evidence as regards their involvement, a report u/s 173 Cr.P.C. was filed on 16.11.2021, which the prosecution filed hurriedly to avoid grant of bail to arrested accused in terms of section 167(2) Cr.P.C.

since the prescribed period of 90 days for presentation of report u/s 173 Cr.P.C. was expiring. It was however stated in the report that since remaining 9 co-accused were yet to be arrested and relatives of 3 out of the 7 charge-sheeted accused, i.e. relatives of Yadwinder Singh, Sukhvir Singh and Gurmukh Singh had submitted applications regarding their innocence which were still pending, a report under 173(8) Cr.P.C. would be filed later. The names of the 7 accused, who were charge-sheeted, are as follows:

1. Anantdeep Singh
 2. Iqbal Kaur
 3. **Sukhvir Singh** (*application regarding his innocence was pending*)
 4. Arbat Singh
 5. Yadwinder Singh(*application regarding his innocence was pending*)
 6. Gurmukh Singh (*application regarding his innocence was pending*)
 7. Didar Singh
4. The remaining 9 accused, who could not be arrested, were mentioned in column No.2 of report dated 16.11.2021 filed u/s 173 Cr.P.C. The names of said 9 accused are stated herein below:

1. Gagandeep Singh
2. Gurpreet Singh
3. Ravinder Singh
4. Harnek Singh
5. Budh Singh
6. Jaspreet Singh
7. Jagdeep Singh
8. Harpreet Singh
9. Manpreet Singh

5. Subsequently, on 2.12.2021, the prosecution submitted a supplementary report under 173(8) Cr.P.C.(Annexure P-2) to the effect that Sukhvir Singh, Yadavindra Singh and Gurmukh Singh whose applications claiming innocence were pending when report u/s 173 Cr.P.C. dated 16.11.2021 was filed, had been found to be innocent, upon further investigation. It may here be mentioned that on 10.12.2021, yet another report under 173(8) Cr.P.C. (Annexure P-5) was presented by the prosecution stating therein that Didar Singh had also been found innocent, upon further investigation.
6. It was consequent upon filing of aforesaid report dated 02.12.2021 (Annexure P-2) filed u/s 173(8) Cr.P.C. by prosecution asserting innocence of petitioner Sukhvir Singh, Yadwinder Singh and Gurmukh Singh, that release of petitioner and others was prayed for before the Area Magistrate. However, the Area Magistrate, declined the said prayer by passing a detailed order dated 3.12.2021(Annexure P-3). The petitioner and others preferred a revision petition against order dated 3.12.2021 (Annexure P-3), but the same was dismissed vide impugned order dated 2.2.2022 (Annexure P-6) passed by learned Sessions Judge, Faridkot.
7. The learned counsel representing the petitioner submitted that when the police initially presented challan against the petitioner on 16.11.2021, an inquiry initiated pursuant to an application moved by the petitioner's wife as regards his innocence was still pending. It has been submitted that an extensive inquiry was conducted by the Superintendent of Police, Faridkot and upon conclusion of same, the petitioner was found to be innocent and that consequently, the supplementary report u/s 173(8) Cr.P.C. dated 2.12.2021 (Annexure P-2) was presented by the police, wherein the petitioner has been declared innocent.

8. It has been submitted that Area Magistrate passed impugned order dated 3.12.2021 (Annexure P-3) declining release of petitioner, without appreciating the findings of enquiry report, while erroneously holding therein that there was sufficient material to prove that petitioner was part of the conspiracy to commit murder. It has further been submitted that even the Court of Additional Sessions Judge, while dismissing revision petition vide impugned order dated 2.2.2022(Annexure P-6), did not take into account the enquiry report, which has led to miscarriage of justice.
9. On the other hand, learned State counsel assisted by the learned counsel for the complainant submitted that the police has collected sufficient evidence to show that petitioner was part and parcel of the conspiracy to kill Navjot Singh. It has further been submitted that since the investigating agency never sought any permission from Court concerned to further investigate the matter after report under 173 Cr.P.C. already stood presented against the petitioner, the supplementary report u/s 173(8) Cr.P.C. cannot be looked into as such practice of conducting further investigation without permission of Court has repeatedly been deprecated by higher Courts. It has thus been submitted that the learned Additional Sessions Judge, Faridkot was perfectly justified in upholding order dated 3.12.2021(Annexure P-3).
10. I have considered rival submissions addressed before this Court.
11. Before proceeding to discuss the factual position in the present case, it is deemed appropriate that the legal issue raised by the learned State counsel as regards propriety of filing supplementary report u/s 173(8) Cr.P.C. (Annexure P-2) asserting innocence of an accused who in the earlier report dated 16.11.2021 u/s 173 Cr.P.C. had been found prima-facie guilty, be discussed. It has been contended on behalf of the State that the aforesaid

supplementary report, which is absolutely contrary to the previous report filed under section 173 Cr.PC, has been filed on the basis of further investigation conducted by police without seeking permission of the Court and that the police has virtually exceeded its jurisdiction in giving a clean chit to an accused after challan had already been presented against him upon finding his participation in the occurrence.

12. Having regard to the contentions raised above, it would be to apposite to retrace the law propounded by Hon'ble Supreme Court in context of scope of section 173 Cr.P.C., with particular reference to sub-Section (8). The relevant provisions of section 173 Cr.P.C. read as under:

"173. Report of police officer on completion of investigation.-

- (1) Every investigation under this Chapter shall be completed without unnecessary delay.

(1A) x x x

- (2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether he has been released on his bond and, if so, whether with or without sureties;
- (g) whether he has been forwarded in custody under section 170;
- (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under section

376, 376A, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code (45 of 1860).

- (ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) x x x

(4) x x x

(5) x x x

(6) x x x

(7) x x x

- (8) *Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."*

(emphasis supplied)

13. Hon'ble Supreme Court, while discussing the nature of right conferred on police to further investigate a matter, in Ram Lal Narang v. State (Delhi Administration) 1979 SCC (Criminal) 479, held that while it is a statutory right of police to further investigate even where a Magistrate has already taken cognizance of the case but the Police should ordinarily seek permission of the Court to conduct further investigation. It was however also observed that in the absence of malice, the failure to do so would not render the investigation illegal.

14. Even in State of Andhra Pradesh v. A.S. Peter (2008) (1) SCC (Criminal) 427, Hon'ble Supreme Court had taken a similar view that law does not mandate taking of prior permission from Magistrate for further investigation.
15. Hon'ble the Supreme Court in Rama Chaudhary others v. State of Bihar 2009 (2) RCR (Criminal) 570, held that after submission of charge sheet in terms of section 173(2) Cr.P.C., the police has a right to further investigate the matter under Section 173(8) Cr.P.C. without prior permission of the Magistrate. It was held therein that in terms of Section 173(8) Cr.P.C., while further investigation is permissible, reinvestigation is not. It was held that the law does not mandate taking prior permission from the Magistrate for conducting further investigation and that carrying out further investigation i.e. after initial presentation of charge sheet is a statutory right of police.
16. In Vinay Tyagi vs. Irshad Ali 2013(2) RCR(Criminal) 197, the Supreme Court after referring to a plethora of judgements, culled out the broad principles in the matter of further investigation as follows:
- “30. Having analysed the provisions of the Code and the various judgments as afore-indicated, we would state the following conclusions in regard to the powers of a magistrate in terms of Section 173(2) read with Section 173(8) and Section 156(3) of the Code :
1. The Magistrate has no power to direct 'reinvestigation' or 'fresh investigation' (de novo) in the case initiated on the basis of a police report.
 2. A Magistrate has the power to direct 'further investigation' after filing of a police report in terms of Section 173(2) of the Code.
 3. The view expressed in (2) above is in conformity with the principle of law stated in Bhagwant Singh's case (supra) by a three Judge Bench and thus in conformity with the doctrine of precedence.

4. Neither the scheme of the Code nor any specific provision therein bars exercise of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).
5. The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the Court to the extent that even where the facts of the case and the ends of justice demand, the Court can still not direct the investigating agency to conduct further investigation which it could do on its own.
6. It has been a procedure of propriety that the police has to seek permission of the Court to continue 'further investigation' and file supplementary charge-sheet. This approach has been approved by this Court in a number of judgments. This as such would support the view that we are taking in the present case."

(emphasis supplied)

17. While specifically dealing with the question of prior permission of Court in Vinay Tyagi's case,(supra) it was held as under:

“49. Now, we may examine another significant aspect which is how the provisions of Section 173(8) have been understood and applied by the courts and investigating agencies. It is true that though there is no specific requirement in the provisions of Section 173(8) of the Code to conduct "further investigation" or file supplementary report with the leave of the court, the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct "further investigation" and file "supplementary report" with the leave of the court. The courts, in some of the decisions, have also taken a similar view. The requirement of seeking prior leave of the court to conduct "further investigation" and/or to file a "supplementary report" will have to

be read into, and is a necessary implication of the provisions of Section 173(8) of the Code. The doctrine of *contemporanea expositio* will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by law should be accepted as part of the interpretative process.”

(Emphasis supplied)

18. While the judgements referred to above do not leave any doubt that the police can further investigate the matter even without permission of the Court, but it has also been expressed therein that it has been and is a matter of propriety that prior permission should be sought by the police for conducting further investigation once a report under section 173 Cr.P.C. has already been presented in the Court. Such caution or propriety is demanded in the interest of fair play particularly where the further investigation is sought to be made so as to reach at a conclusion conflicting with the earlier report as in the present case. A conflicting report does not reflect well upon the investigating agency inasmuch as the same rather reflects that the matter had not been investigated properly in the first instance and entire evidence had not been collected, though of course, in exceptional cases the investigating agency may satisfy Court that despite due diligence and despite following the standard protocol of investigation, such evidence did not surface earlier. The Courts have come across cases where the investigating agency comes up with a supplementary report under section 173(8) Cr.P.C. with a conflicting conclusion solely on the basis of some oral evidence collected subsequently without there being any justifying reason as to why the statement of such witnesses were not recorded earlier. In such cases the conduct of the investigating agency is rather rendered suspect.

19. In the present case though the investigating agency had not taken any prior permission of the Court before conducting further investigation, but keeping

in view that there is no such bar in the Code and also that the trial Court concerned cannot be said to have taken cognizance when supplementary report u/s 173(8) Cr.P.C. was presented on 2.12.2021 (Annexure P-2) inasmuch as the case had just been committed to the Court of Sessions, the supplementary report cannot be called to question on the count that the police had not taken prior permission of the Court before conducting further investigation. The contention raised in this regard cannot be accepted.

20. Coming to the facts of the case, it is not in dispute that while the petitioner is amongst the three accused named in FIR, he is not specifically stated to be amongst the 15-20 assailants. He is alleged to be a conspirator. As such the investigation conducted by the police needs to be referred to. A brief gist of investigation, as it had progressed after lodging of FIR, is stated below:

- (i) blood-stained soil was collected from the place of occurrence. However the report of FSL is awaited;
- (ii) the damaged car in which the deceased was travelling was taken into possession. Broken pieces of window pane glass were recovered from the place of occurrence;
- (iii) medical evidence in the shape of post-mortem report of deceased Navjot Singh and also MLR in respect of injured Mandeep Singh who was found to have sustained 1 injury with the help of a sharp edged weapon and another with a blunt edged weapon;
- (iv) supplementary statement dated 20th of August 2021 of eyewitness Baljinder Singh wherein he disclosed names of accused while stating that white coloured '*Innova*' car bearing registration No. PB-04-AD-0303 was being driven by Arbat Singh while Yadvinder Singh was sitting on the front passenger seat and Gagandeep Singh on the rear seat who were carrying rods. He further stated that in black coloured '*Scorpio*' vehicle bearing registration No. PB-39-G-3500 Gurpreet along with 2 unknown persons was sitting and while one of them was armed with a revolver the other was having a gun. He stated that in the

white coloured '*Swift- Desire*' car bearing registration No. PB-76A-8331, 2 persons were sitting. He stated that Anantdeep along with another person who was wearing a cap was sitting in a new model '*Thar*' vehicle. He further stated that there was another grey coloured old model '*Thar*' vehicle in which 2 persons were sitting. It was on the basis of the said supplementary statement that four accused namely Arbat Singh, Yadavinder Singh, Gagandeep Singh and Gurpreet Singh came to be nominated vide DDR No. 51 dated 20th of August 2021;

- (v) Arbat Singh and Yadvinder Singh came to be arrested on 20th of August 2021 while they were travelling in '*Innova*' vehicle bearing registration No. PB-04-AD-0303. Pursuant to a disclosure statement made by Arbat Singh about having inflicted injuries with iron rod to deceased Navjot Singh and injured Mandeep Singh, he got the said iron rod recovered on 22.08.2021. He also disclosed having fired in air with his licensed revolver and got the same recovered alongwith 7 cartridges apart from a double barrel 12 bore gun;
- (vi) Yadavindra Singh also made a disclosure statement to the effect that he had given his 12 bore licensed gun to his friend Anantdeep about a week before the occurrence and had brought the same back from Ravinder Singh one day after the occurrence. Pursuant to his disclosure statement he got the said double barrelled licensed gun recovered apart from a belt containing 20 live cartridges;
- (vii) Sukhvir Singh was arrested on 24.8.2021. He is specifically named in FIR stated to be helping Iqbal Kaur and not allowing Balwinder Singh to enter the land;
- (viii) pursuant to another supplementary statement dated 25.8.2021 made by eyewitness Balwinder Singh and on the basis of some other evidence collected by the police, another nine accused namely Ravinder Singh, Harnek Singh, Didar Singh, Budh Singh, Jaspreet Singh, Jagdeep Singh, Gurmukh Singh, Harpreet Singh and Manpreet Singh were nominated as accused vide DDR No. 40 dated 25.08.2021;
- (ix) Gurmukh Singh was produced before police on 25.8.2021 by Kulwant Singh Panch, village Dhilwan Kalan. Upon interrogation he disclosed

that he along with Harpreet Singh and Manpreet Singh and his friend had conducted *recce* while sitting in a Zen car bearing registration No. PB-11T-0085. Pursuant to his disclosure statement, he got the said Zen car recovered from the house of his brother-in-law of Harpreet Singh;

- (x) CCTV footage pertaining to 17.8.2021 from 8AM to 10.30AM collected from Green Dhaba, Kotkapura showing Anantdeep alongwith other persons stated to be gangsters;
- (xi) Anantdeep and Iqbal Kaur were arrested by the police on 17.09.2021 while they were travelling in a car without any registration number. On 19.9.2021, pursuant to a disclosure statement made by Anantdeep, he got recovered a hockey stick stated to be used by him for inflicting injuries;
- (xii) Didar Singh was produced before the police by Ex-Sarpanch Shivraj Singh on 4.10.2021, who disclosed that he alongwith his friend Yadavinder Singh and Gagandeep Singh had furnished information regarding arrival of Navjot Singh in his car bearing registration No. DL-10-CF-0120 to the main accused Anantdeep who, in connivance with other accused, killed Navjot Singh;
- (xiii) the investigating agency also got Test Identification Parade conducted in respect of accused Arbat Singh, Yadavinder Singh, Didar Singh and Gurmukh Singh through complainant Surinder Kaur in the Court of JMFC Faridkot. Didar Singh is not stated to have been identified by complainant Surinder Kaur;
- (xiv) during investigation call details record in respect of mobile phones of accused was also collected indicating presence of Anantdeep Singh, Harnaik Singh, Gurpreet Singh, Jagdeep Singh, Ravinder Singh, Harpreet Singh, Budh Singh and Manpreet Singh at village Warra Darraka. Further as per the said Call Details Record, the location of accused Gagandeep Singh, Didar Singh and Yadvinder Singh who had conducted *recce* is shown at Muktsar Sahib;
- (xv) as far as the use of the weapons recovered from the accused is concerned, the report of FSL is still awaited.

21. The prosecution, while submitting supplementary report dated 2.12.2021 (Annexure P-2) u/s 173(8) Cr.P.C. has mainly relied upon evidence collected by the investigating agency during further investigation to the effect that petitioner was never ever present at the spot and in fact was present at Delhi Heart Institute and Multispecialty Hospital, Moga in connection with medical check-up of his wife Paramjit Kaur, where his presence is duly recorded in the CCTV cameras installed therein. The relevant extract from supplementary report dated 2.12.2021(Annexure P-2) reads as follows:

“Complaint No.589P.C03/21 dated 17.09.2021 was submitted by Paramjit Kaur wife of Sukhvir Kaur @ Sukhi, resident of village Rajeeana regarding innocence of her husband to Deputy Inspector General of Police, Faridkot Range which was marked to Sh. Balkrishan Singla, Superintendent of Police (D), Faridkot who has written in his investigation report, “from the investigation and enquiry conducted till now it has been found that on the day the case was registered Sukhvir Singh @ Sukhi son of Mukhtiar Singh alongwith his wife Paramjit Kaur went to Delhi Heart Institute and Multispecialty Hospital Moga for getting medicines of his wife in this regard Paramjit Kaur has submitted proof i.e. OPD Slip of the hospital dated 17.08.2021 on which time 11:49:33 AM is entered. Apart from that Paramjit Kaur aforesaid has also produced video footage of the CCTV Camera installed in the hospital in the form of CD and as per statement of Gagandeep Sharma son of Inderjit Sharma resident of Shahid Bhagat Singh Nagar, who is employee in Delhi Heart Institute and Specialty Hospital Moga, Sukhvir Singh @ Sukhi’s wife Paramjit Kaur is found to have come to the Hospital for her medical checkup. From watching the CD of the video footage of the Hospital submitted by Paramjit Kaur, Sukhvir Singh @ Sukhi is found present on 17.08.2021 at Delhi Heart Institute and Specialty Hospital Moga alongwith his wife for her checkup.....”

22. Referring to said report, while the counsel for petitioner submitted that when the *alibi* of the petitioner is established beyond any doubt, petitioner Sukhvir Singh deserves to be discharged, learned State counsel assisted by the counsel for the complainant, on the other hand, submitted that since the

petitioner is specifically named in the FIR and alleged to have conspired with Iqbal Kaur and Anantdeep Singh, his absence at the spot of occurrence is of no consequence.

23. While appreciating the plea of alibi, it needs to be borne in mind that it is not the specific case of prosecution that Sukhvir Singh had inflicted any injury to the deceased or to anybody else at the spot. Rather, the case of the prosecution, right from day one is that Sukhvir Singh had conspired with Iqbal Kaur and Anantdeep Singh for the purpose of commission of offences in question, as the complainant and her son Navjot Singh (deceased) had been helping Balwinder Singh to pursue his cases against Iqbal Kaur. When it is not the case of the prosecution itself regarding the presence of the petitioner at the spot of occurrence, the evidence collected by the investigating agency that at the time of occurrence, the petitioner was in some hospital at Moga would be insignificant since the conspiracy would have been hatched much prior to the occurrence and not when the occurrence was actually taking place.
24. In view of the afore-stated position, wherein the allegations are as regards the petitioner having conspired with Iqbal Kaur and Anantdeep Singh for the purpose of commission of offences, the contention of the learned counsel as regards his presence at Delhi Heart Institute and Multispecialty Hospital, Moga would be of no consequence. It is not necessary that each of the conspirators must have actively participated in the commission of the offence on the day of occurrence. When the initial report u/s 173 Cr.P.C. was filed by prosecution on 16.11.2021, it was specifically mentioned therein that Sukhvir used to help Iqbal Kaur and used to give lease amount of land to her in respect of land belonging to Balwinder Singh and that they were

not allowing Balwinder Singh to enter into his land and that litigation is pending amongst Iqbal Kaur and Balwinder Singh. It is well settled that normally there is no direct evidence in respect of conspiracy as the same is hatched in privacy and that the same can, however, be proved by circumstantial evidence.

25. The Court, at this stage, is not to embark upon a mini trial, but is required only to broadly assess the relevance of evidence collected by the prosecution and the quality of such evidence so as to weigh the same against the version of the accused as may be put forth or any such evidence as may have been collected by the investigating agency while considering such version. There is nothing in the supplementary report dated 2.12.2021 (Annexure P-2) so as to dislodge the prima-facie finding of petitioner being a conspirator, having been helping Iqbal Kaur as against Balwinder Singh. In these circumstances, this Court does not find any valid ground for the prosecution to have come up with a contrary finding as regards innocence of petitioner on the basis of alibi which, in any case, is inconsequential in view of his role being that of a conspirator.
26. There is no infirmity in the order passed by the trial Court dated 03.12.2021 (Annexure P-3) declining the prayer of the prosecution for release of the petitioner or in order dated 02.02.2022 (Annexure P-6) passed by the Revisional Court upholding the said order. The petition is sans merit and is hereby dismissed.
27. Needless to mention, it shall be always open to the petitioner to lead evidence in his defence at appropriate stage so as to demolish the case of prosecution and to establish his innocence. It is also clarified that dismissal

of the instant petition shall not be taken into account by trial Court while finally deciding the case.

16.05.2022
Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No