

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM-M-9796-2022(O&M)  
Date of decision : 08.04.2022

Amarjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

***CORAM: HON'BLE MR.JUSTICE VIKAS BAHL***

Present: Mr.Vinod Ghai, Senior Advocate with  
Ms.Mahima Dogra, Advocate  
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

**VIKAS BAHL, J.(ORAL)**

**CRM-10307-2022**

Allowed as prayed for.

Anneuxre P-1, i.e. statement of PW-1 Jaspreet Singh is taken  
on record subject to all just exceptions.

**CRM-M-9796-2022**

This is a first petition under Section 439 Cr.P.C. for grant of  
regular bail to the petitioner in FIR no.86 dated 21.04.2021 registered under  
Sections 323, 325, 341, 307, 34 IPC (Section 302 IPC added later on) at  
Police Station Sadar Samana, District Patiala.

Learned senior counsel for the petitioner has submitted that in  
the present case, the FIR was registered on the statement of Jaspreet Singh,  
who is son of the deceased Sukhdev Singh and in the said FIR, he has stated  
that he had witnessed the occurrence which had taken place at 7:30 PM on

highlighted that in the FIR it has been stated that “now I have come to know that out of the persons who had beaten my father, one of them is Sohi Baba”. It is further mentioned in the FIR that said statement has been given on 21.04.2021 with respect to the incident that took place on 20.04.2021 after consulting his brother Lovepreet Singh. Learned senior counsel for the petitioner has submitted that the same clearly shows that the complainant, who is stated to have seen the occurrence, had not said that Sohi Baba was the person whom he saw inflicting injuries. It is also argued that the petitioner is Amarjit Singh and is not known as Sohi Baba. Further reference has been made to supplementary statement of the complainant dated 23.04.2021 in which, he has stated that since, on 21.04.2021, he was nervous so he forgot to mention that on 19.04.2021 Amarjit Singh Sohi Baba, Rajinder Singh alias Chichu and Arun Kumar alias Chhotu had chased his father to beat him up. It is submitted that there is no complaint with respect to any incident occurring on 19.04.2021 and there is nothing to prima facie show that Amarjit Singh is Sohi Baba. It is also submitted that in any case that said statement dated 23.04.2021 is not reflected in the examination-in-chief of the complainant Jaspreet Singh, who has been examined as PW-1. It has been argued that the petitioner was initially granted interim bail vide order dated 24.05.2021 (Annexure P-10) as initially, the FIR had been registered under Sections 323, 325, 341, 307, 34 IPC and the petitioner had joined investigation. On 27.05.2021, i.e. after one month and seven days of the incident, Sukhdev Singh had died and thus, on 27.05.2021, the petitioner was arrested, in violation of law laid down in the judgment of the Hon'ble Supreme Court in ***Pradeep Ram vs State of Jharkhand*** reported as ***2019 Latest Case Law 527 SC*** inasmuch as,

permission of the Court was not sought before arresting the petitioner. It is argued that after arrest of the petitioner on 27.05.2021, the prosecution tried to introduce certain additional facts by recording second supplementary statement of Jaspreet Singh on 29.05.2021 (Annexure P-3), as per which, he had further investigated the matter and had stated that certain things had taken place in front of his brother Lovepreet Singh and thus, Lovepreet Singh was sought to be introduced as a witness. It has been argued that a perusal of the FIR would show that the FIR was registered after consulting his brother Lovepreet Singh and said Lovepreet Singh did not get any statement recorded till 29.05.2021. It is submitted that statement of Lovepreet Singh dated 29.05.2021 is thus, apparently an afterthought and at any rate, the only eye witness in the present case is Jaspreet Singh, who has now been examined as PW-1 and in his evidence, he has denied having given the supplementary statement dated 29.05.2021. It is further stated that even the supplementary statement dated 23.04.2021 does not find mention in his examination-in-chief and that the said statement of PW-1 is self-contradictory as, in the examination-in-chief, the complainant had stated that he knew the present petitioner Amarjit Singh Sohi whereas, in the cross-examination he has stated that in fact, he did not know him earlier. It is submitted that either way, the petitioner would have a legal argument to raise inasmuch as, in case, the complainant knew the petitioner then in the FIR, he would have stated that it is the petitioner who had inflicted injuries upon the deceased whereas, instead he had stated in the FIR that “now I have come to know”. It is submitted that in case, the cross-examination is taken to be true then in that situation, no test identification parade had been conducted. It is also highlighted that said PW-1 has also stated in his

examination-in-chief that he does not remember whether he had made a statement to the police on 27.05.2021 or not and the police had not arrested the accused in his presence. It is thus, highlighted that the case of the prosecution to the effect that on 27.05.2021, the petitioner was arrested in the presence of the complainant also stands demolished. It is thus, submitted that in the present case, the identity of the petitioner is not proved and the petitioner has been in custody since 27.05.2021 and there are 28 prosecution witnesses and out of which, one witness has been examined, thus, the trial is likely to take time. It is also submitted that the petitioner is not involved in any other case and two co-accused of the petitioner namely, Jagtar Singh and Yaskaran Singh @ Karanvir Singh @ Kazran, have also been granted the concession of regular bail by this Court.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that mentioning of the statement “now I have come to know” could also mean that the complainant knew the petitioner but did not know his name and it is subsequently, that the name had come to the knowledge of complainant. It is further submitted that even if the subsequent supplementary statements are not taken into consideration then also, since the name “Sohi Baba” appears in the FIR itself, thus, the test identification parade of the petitioner is not required. It is submitted that the petitioner does not deserve the concession of regular bail.

This Court has heard learned counsel for the parties and has perused the paper book.

The occurrence in question had taken place on 20.04.2021 at 07:30 PM and the FIR was registered on the statement of Jaspreet Singh on

21.04.2021, who stated that he saw three persons beating his father and thus, as per the case of the prosecution, he was an eye witness. The relevant portion of the said FIR is reproduced hereinbelow:-

*“now I came to know that the persons who have beaten my father, one of whom is Sohi Baba resident of Patran and I can recognize the other people if come in front of me, so today after consulting with my brother I along with Jaswinder Singh mentioned above has come to the Police Post and got recorded my statement before you, read over the same which is true and correct. Sd/- Jaspreet Singh”*

A perusal of the above would show that it is stated by the complainant that “he has now come to know” that one of the persons who had beaten up his father was Sohi Baba. In the FIR, the complainant has not mentioned that it was Amarjit Singh who was the person involved or Amarjit Singh (petitioner) is known as Sohi Baba. It is the case of the petitioner that he is not known as Sohi Baba and even a suggestion to the said effect has been given to PW-1 Jaspreet Singh. Thus, the question whether Amarjit Singh is also known as Sohi Baba or not, is one of the issues which is to be adjudicated during the course of trial. The supplementary statement dated 23.04.2021 of the complainant was recorded in which, he has stated that he was very nervous on 21.04.2021 and thus, he forgot to mention certain things one of which was that on 19.04.2021, Amarjit Singh Sohi Baba (as stated in the statement although as per the petitioner he is not known as Sohi Baba) and two other persons had fought with the father of the complainant on 19.04.2021. With respect to the said allegation it would be relevant to note that there is no complaint filed by any person on 19.04.2021 or thereafter with respect to the said incident and in the examination-in-chief PW-1 (complainant) has not made any reference

to the supplementary statement dated 23.04.2021. The petitioner is stated to have been granted anticipatory bail on 24.05.2021 vide Annexure P-10 as at that stage, the FIR had been registered under Sections 323, 325, 341, 307, 34 IPC and it is on 27.05.2021, i.e. after a period of one month and seven days from the alleged occurrence, that Sukhdev Singh died and on 27.05.2021, the petitioner was arrested. The prosecution recorded the second supplementary statement of Jaspreet Singh (complainant), which has however been denied by him in his evidence as PW-1. As per the above second supplementary statement, Jaspreet Singh has introduced Lovepreet Singh by stating that certain things had taken place in front of his brother Lovepreet Singh and thereafter the prosecution recorded the statement of Lovepreet Singh on 29.05.2021. It would be relevant to note that in the FIR which was registered on 21.04.2021, it was mentioned that the complainant had got the FIR registered after consulting his brother Lovepreet Singh and yet, no statement of Lovepreet Singh was recorded for a period of one month and seven days and it is only after the petitioner was arrested on 27.05.2021 that the statement of Lovepreet Singh was recorded on 29.05.2021. Jaspreet Singh has been examined as PW-1 and the relevant portion of his evidence is reproduced hereinebelow:-

*“....On examining the mobile phone of my father I came to know that my father had a dispute with Amarjit Sohi. I knew accused Amarjit Singh Sohi. I came to know about the remaining accused only after their arrest by the police. The police did not show the accused to us after their arrest....*

*.....I do not remember as to if I had made a statement to the police on 27.5.2021 or not. The police has not arrested the accused in my presence.*

*(At this stage, learned Public Prosecutor requests that the witness has been suppressing the truth and therefore, he may be allowed to ask the questions of that nature which are otherwise allowed to be*

*asked only during the cross-examination of a witness. Heard. The request is allowed.)....*

*.....I did not make any statement to the police on 29.5.2021. It is wrong to suggest that I had made a statement mark-B to the police on 29.5.2021....*

*XXXXXXX examination by Sh.NPS Waraich, Advocate for accused Amarjit Singh.*

*I did not mention in the statement Ex.P1 that I did not know accused Amarjit Singh as in fact I did not know him earlier....*

*....I had mentioned in the statement Ex.P1 that lateron I had come to know that one person namely Sohi Baba of Patran was involved in the occurrence. However, I did not mention in the statement that who had told me about this fact."*

A perusal of the above reproduced portion would show that in examination-in-chief, there is no reference of supplementary statement dated 23.04.2021 and he had stated in his examination-in-chief that he knew Amarjit Singh Sohi whereas in the cross-examination, he had stated that he did not know him earlier. Thus the evidence of PW-1, on the said vital fact is contradictory. The argument of learned senior counsel for the petitioner to the effect that in case, the complainant did not know the petitioner earlier, then identification parade was necessary, cannot be brushed aside moreso, in view of the fact that the said complainant has denied his statement given to the police on 27.05.2021 and also, denied the fact that police had arrested the accused in his presence. A further perusal of the cross-examination would show that supplementary statement dated 29.05.2021 has been denied by the complainant which would cast a shadow of doubt on the introduction of Lovepreet Singh, as, as per the statement dated 29.05.2021, it was alleged by the complainant that certain things were known to his brother Lovepreet Singh. PW-1 in his further cross-examination has stated that he had mentioned in the statement Ex.P1 (FIR)

that later on he had come to know that one person namely Sohi Baba was

involved in the occurrence but he had admitted that he had not mentioned in the statement that who had told him about the said fact. Thus, the question regarding identity of the petitioner would be a matter of debate during the trial. The petitioner has been in custody since 27.05.2021 and there are 28 prosecution witnesses out of which, only one witness has been examined, thus, the trial is likely to take time. The petitioner is not involved in any other case. Co-accused of the petitioner, Jagtar Singh and Yaskaran Singh @ Karanvir Singh @ Kazran have already been granted the concession of regular bail.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

**(VIKAS BAHL)**  
**JUDGE**

**April 08, 2022**  
*Davinder Kumar*

Whether speaking / reasoned  
Whether reportable

Yes/No  
Yes/No