

CRM-M-17315-2021 and
CRM-M-40706-2021

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(213)

1. CRM-M-17315-2021
Sukhpreet Singh @ SukhaPetitioner

Versus

State of PunjabRespondent

2. CRM-M-40706-2021
Jaskamalpreet SinghPetitioner

Versus

State of PunjabRespondent

Date of decision: - 03.08.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Navkiran Singh, Advocate
and Shiv C. Bhola, Advocate
for the petitioner in CRM-M-17315-2021.

Mr. Arnav Sood, Advocate
for the petitioner in CRM-M-40706-2021.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This order shall dispose of two petitions. The first petition has been filed by Sukhpreet Singh @ Sukha i.e. CRM-M-17315-2021 and the second petition has been filed by Jaskamalpreet Singh i.e. CRM-M-40706-2021.

Both the said petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.150 dated 20.07.2020, under Sections 302, 307, 324, 323, 427, 148, 149 and 120-B IPC (Section 325 IPC has been added later on), registered at Police Station Mahilpur, District Hoshiarpur.

Learned counsel for both the petitioners has submitted that petitioner Sukhpreet Singh is in custody since 02.08.2020 and petitioner Jaskamalpreet Singh is in custody since 09.11.2020 and the challan has already been presented and there are total 34 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that in spite of issuance ofailable warrants against complainant Seema Rani and the alleged eye witnesses, they are not appearing, thus, the trial is being delayed. It is stated that both the petitioners are not involved in any other case. It is argued that a perusal of the FIR would show that the petitioners are not named in the same and complainant Seema Rani had specifically mentioned that it was on account of enmity that co-accused Soni, Kulwinder Kaur, Mandeep Kaur, Sonu and Ravi, Kamaljit Kaur and her husband Charan Dass after hatching conspiracy, had inflicted injuries upon the two sons of the complainant and one of them, namely, Deepak Kumar had died and the other Shiv Shant had been injured. It is further argued that out of the persons who have been specifically named in the FIR, Sonu, Kuldeep Kaur and Mandeep Kaur have been exonerated by the police and other persons have not been arrested as yet. It is submitted that after a delay of

10 days from the date of occurrence and 9 days of the registration of the FIR, the statements of Tirath Singh and Baljeet Singh under Section 161 Cr.P.C. were recorded on 29.07.2020 and it is the prosecution case that the said two witnesses are the eye witnesses of the occurrence. Reference has been made to the statement of Baljeet Singh, which has been annexed as Annexure P-4 along with CRM-M-40706-2021, to highlight the fact that neither of the present petitioners have been named in the same. The statement of Tirath Singh dated 29.07.2022 (Annexure P-3) has also been referred and in the said statement, the name of Jaskamalpreet Singh is not mentioned, whereas, the name of several persons including petitioner Sukhpreet Singh has been mentioned. It is further submitted that even in the said statement, no specific injury has been attributed to petitioner Sukhpreet Singh and there is no explanation, as to why, the said Tirath Singh and Baljeet Singh, who have alleged themselves to be eye witnesses, had not given their statements for a period of 10 days following the date of the occurrence. It is further submitted that a perusal of the postmortem report (Annexure P-5) (page 20 of the paper-book), annexed along with CRM-M-17315-2021, has been referred to show that although, the deceased had suffered seven injuries, but injuries No.2, 3, 5 were abrasions, whereas, only injury No.1 was a fatal injury, thus, it has been highlighted that in the present case, a net has been cast wide to include a large number of persons, although from the injuries suffered also, it is apparent that 15 persons could not have been involved in the alleged incident. It is further submitted that even the injured Shiv Shant

had suffered four injuries and three out of the said injuries were declared to be simple in nature and one injury was declared grievous. It is also submitted that on the basis of the above-said facts, more so, seeing the custody undergone by the petitioners, and also the fact that the petitioners are not involved in any other case, they deserve the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petitions for regular bail and has submitted that in the present case, one person has died and one person has been injured and the eye witness Tirath Singh, who got his statement recorded on 29.07.2020, had named petitioner Sukhpreet Singh as one of the persons who had participated in the occurrence. It is further submitted that the said Sukhpreet Singh in his disclosure statement had given the name of Jaskamalpreet Singh as one of the persons who had participated in the said incident. It is further submitted that it was the said Jaskamalpreet Singh who had called the said Sukhpreet Singh. Learned State counsel has further submitted that the police had gone to the hospital for recording the statement of injured Shiv Shant and the doctors had stated that he was unfit for recording the statement, thus, his statement could only be recorded on 30.07.2020, when he got discharged. Learned State counsel has pointed out that as per the call details, the present petitioners were also present at the spot.

Learned counsel for the petitioners, in rebuttal, have submitted that as per the challan, there is no transcript of any call details.

It is further submitted that the statement of injured Shiv Shant has been recorded on 30.07.2020, after a period of 10 days from the date of registration of the FIR and a reference has been made to the MLR dated 19.07.2020 (Annexure P-4), annexed along with CRM-M-17315-2021, to show that the said Shiv Shant was stated to be conscious, cooperative well oriented to time, place and person, vitals normal, B/L pupillary reflex normal on 19.07.2020 itself. It is further submitted that even as per the said statement of Shiv Shant, he had also specifically named Gurpreet Singh and Parminder Singh as the persons who had collected many boys at his house and further the name of the present petitioners had been mentioned by stating that the said names of the petitioners had been told to him by Baljeet Singh and Tirath Singh and thus, it is not the said injured, who had stated that he had seen the present petitioners committing the alleged offence.

This Court has heard learned counsel for the parties and gone through the paper-book.

Petitioner Sukhpreet Singh is in custody since 02.08.2020 and petitioner Jaskamalpreet Singh is in custody since 09.11.2020 and the challan has already been presented and there are total 34 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. The petitioners are stated to be not involved in any other case. A perusal of zimni order dated 01.07.2022 and 27.07.2022 would show that complainant Seema Rani and injured Shiv Shant are not appearing before the Court in spite of issuance ofailable warrants against them.

The said zimni orders are reproduced as under: -

"STATE OF PUNJAB VS GURPREET SINGH etc.

*Present: Addl. Public Prosecutor for State assisted by Sh. Savinder Singh Saini, Adv
Accused Gurpreet Singh @ Gopi in custody (not produced through VC Hoshiarpur) represented by Sh. RP Dhir, Adv.
Accused Sukhpreet Singh, in custody (not produced through VC Hoshiarpur) represented by Sh. JBS Gill, Adv
Accused Teja Singh & Akashdeep in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla Adv. Free legal aid counsel And Sh. Pankaj Bedi Adv.
Accused Jaskamalpreet Singh & Roshan in custody (not produced through VC Hoshiarpur) represented by Sh. Pankaj Bedi Adv.
Accused Parminder Singh in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla and NS Maan, Adv
Accused Akshay in custody (not produced through VC Patiala) represented by Sh. Pankaj Bedi Adv.*

Accused produced by the jail authorities through VC. They be again produced on 27.07.2022 through VC. Retired Inspector Sukhwinder Singh is present but not examined as prosecution wants to examine eye witnesses first. Please discharge for time being.

Summon issued to PW Seema Rani and Shivshant received back served. But they have not come present. Let bailable warrants of these witnesses be issued for 27.07.2022. Remaining pws be summoned for the date fixed.

*Date of Order: 01.07.2022
Diksha Rani-Steno*

*(Jatinder Pal Singh Khurmi)
Additional District and Sessions Judge
UID NO . PB00057"*

"STATE OF PUNJAB VS GURPREET SINGH etc.

*Present: Addl. Public Prosecutor for State assisted by Sh. Savinder Singh Saini, Adv
Accused Gurpreet Singh @ Gopi in custody (not produced through VC Hoshiarpur) represented by Sh. RP Dhir, Adv
Accused Sukhpreet Singh, in custody (not produced through VC Hoshiarpur) represented by Sh. JBS Gill, Adv
Accused Teja Singh & Akashdeep in custody (not produced through VC Hoshiarpur) represented by Sh. Vikram Bhalla*

*Adv. Free legal Aid Counsel And Sh. Pankaj Bedi Adv.
Accused Jaskamalpreet Singh & Roshan in custody (not
produced through VC Hoshiarpur) represented by Sh.
Pankaj Bedi Adv.
Accused Parminder Singh in custody (not produced
through VC Hoshiarpur) represented by Sh. Vikram Bhalla
and NS Maan, Adv Accused Akshay in custody (not
produced through VC Patiala) represented by Sh. Pankaj
Bedi Adv.*

*Accused not produced by the jail authorities through VC. Let
production warrants of accused be issued for 18.08.2022. Bailable
warrants of Seema Rani and Shiv Sant were executed but they have not
turned up. Let they be summoned through non bailable warrants for
18.08.2022.*

*Date of Order: 27.07.2022
Diksha Rani-Steno*

*(Jatinder Pal Singh Khurmi)
Additional Sessions Judge/Hoshiarpur
UID No. PB-00057 "*

A perusal of the FIR would show that the complainant had specifically stated that it was on account of enmity that Soni, Kulwinder Kaur, Mandeep Kaur, Sonu and Ravi, Kamaljit Kaur and Charan Dass after hatching a conspiracy, had inflicted injuries upon her sons. Out of said persons, who had been specifically named in the FIR, three persons, namely, Soni, Kuldip Kaur and Mandeep Kaur have been declared as innocent and some of the persons named therein have not been arrested as yet and after a delay of 9 days of registration of the FIR and 10 days from the incident, the statements of Baljeet Singh and Tirath Singh have been recorded, who are stated to be the eye witnesses. A perusal of the said statement of Baljeet Singh (Annexure P-4), annexed with CRM-M-40706-2021, would show that neither of the petitioners had been named in the same. Further, the statement of Tirath Singh (Annexure P-3), annexed along with CRM-M-40706-2021, would also show that

petitioner Jaskamalpreet Singh had not named in the same and even against Sukhpreet Singh, there was no specific attribution and he had been named along with a large number of other persons. There is nothing stated in the said statements to explain as to why the same had been given by Baljeet Singh and Tirath Singh, who are alleged to be the eye witnesses, after a delay of 9 days of the registration of the FIR and 10 days after the date of the alleged incident. A perusal of the MLR of the injured Shiv Shant (Annexure P-4), annexed along with CRM-M-17315-2021, would show that he had been stated to be conscious, cooperative well oriented to time, place and person, vitals normal on 19.07.2020 itself, yet his statement had been recorded on 30.07.2020 i.e., after a delay of 10 days. Even as per the statement dated 30.07.2020 (Annexure P-3), annexed along with CRM-M-17315-2021, he had stated that he had made enquiry at his personal level after the alleged incident had occurred on 19.07.2020 and he came to know that before the incident, Gurpreet Singh son of Joginder Pal had come to enquire about welding of a bed from him, but he did not get the bed thereafter and after some time, several persons came to the shop of the injured and had committed the illegal act. It is further stated that he had come to know Gurpreet Singh (non-petitioner) had informed Parminder Singh about the presence of the injured at the shop and at that time, Parminder Singh, along with several other persons, had arrived there and inflicted injuries upon him and his brother. As far as names of the present petitioners are concerned, he had stated that it is the aforesaid Baljeet Singh and Tirath Singh, who had told him about the

involvement of the petitioners along with several other persons. Thus, as per the statement of Shiv Shant, it was not Shiv Shant who had himself seen the petitioners committing the alleged crime. No motive to commit the said crime has been alleged against the present petitioners.

Keeping in view the above-said facts and circumstances, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, 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 cases which are only for the purpose of adjudicating the present bail petitions.

It is made clear that in case, any act is done by the petitioners 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 petitioners.

August 03, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes