

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27763-2022 (O&M)
Reserved on: 07.07.2022
Date of Pronouncement: 18.07.2022

Shagun Preet Singh
...Petitioner (s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate
Ms. Kirti Ahuja, Advocate
Mr. Gaurav Dutta, Advocate
Mr. Edward Augustine Goeorge, Advocate
Mr. Manish Modi, Advocate
Ms. Shrishti Sharma, Advocate and
Mr. Nikhil Singh, Advocate
for the petitioner(s).

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

Mr. R.S. Rai, Sr. Advocate with
Mr. Manpreet Singh Dhaliwal, Advocate
Mr. Paras Talwar, Advocate
Ms. Rubina Virmani, Advocate
Mr. Tushan Rawal, Advocate
Mr. Gagandeep Rana, Advocate
Mr. Siddharth Gupta, Advocate and
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
168	07.08.2021	Mataur, District SAS Nagar (Mohali), Punjab	Sections 302 and 34 of Indian Penal Code, 1860 [IPC] and Sections 25 & 27 of Arms Act, 1959 (Sections 120-B and 473 IPC added later on)

1. The petitioner, Shagun Preet Singh, apprehending arrest in the above captioned FIR, on the allegations of conspiring with others to get sharpshooters, making arrangements for their stay and providing conveyance to the assailants, who, on Aug 7, 2021, at the petitioner's instance fired multiple shots on Vicky Middukhera at Mohali, Punjab, causing his death, has come up before this court under section 438 of the Code of Criminal Procedure, 1973 [CrPC], seeking anticipatory bail.

2. In paragraph 22 of the bail petition, the petitioner declares that he has no criminal antecedents.

3. The Station House Officer of the above-mentioned police station recorded the statement under section 154 CrPC of Ajaypal Singh Midhukhera, the brother of the deceased Vikramjeet Singh alias Vicky Midhukhera, wherein he informed that on 7th Aug 2021, Vicky Midhukhera had gone to the office of a property consultant at Sector 71, Mohali. After some time, the complainant had also driven to meet the consultant. When he had taken a turn towards the parking lot of the said office, he noticed two boys coming out of a white colouri-20 car with registration number PB/65 AK-7530. After that, they fired at his brother, who started running to save his life, but both the assailants also chased him and kept on firing continuously. Two other persons sitting in same i20 also came out and ran after his brother, who, to save himself, entered the community center. The complainant also followed them and noticed that the assailants were firing at his brother, and later on, they fled away in the same i20 car and carried the weapons with them. The complainant took his brother to IVY Hospital in the same sector of Mohali, where the doctors declared him dead. Based on this information, the police registered the above-mentioned First Information Report (FIR).

4. The facts as stated above are predominantly from the FIR. The remaining facts are taken from the status report of the case filed by the Deputy Superintendent of Police having jurisdiction over the matter.

5. The post-mortem examination of the body confirmed the bullet injuries as the cause of death. Apart from collecting other scientific evidence from the crime scene, the investigators also recovered twelve empty cartridges, four unused cartridges, and one bullet-laden cartridge from the spot. Further, the

deceased's car was seized to collect scientific evidence of bullet marks. The property consultant had CCTV camera installed outside his office, and the police also obtained the video recordings (DVR) of the same.

6. On Aug 07, 2021, the complainant informed the Investigator through his statement recorded under section 161 CrPC that around one and a half years ago, Gaurav Patial alias Lucky had threatened Vicky Middukhera. The said person was nominated as accused based on this statement and it was found on inquiry that Gaurav Patial was confined in Nabha Jail after conviction in an FIR of 2012 for murder. The Investigator obtained his fingerprints and other details from the jail's record.

7. On Sep 11, 2021, the complainant further informed the Investigator that Amit Daggar and Kaushal, who were associates of Gaurav Patial, were involved in the conspiracy to commit murder of his deceased brother, and the Investigator recorded his supplementary statement under section 161 CrPC to the said effect. The investigation revealed that Kaushal was already under arrest in another case and was confined in Central Jail Gurdaspur, and similarly, Amit Daggar was also under arrest and confined in the jail of Delhi. After obtaining production warrants, their custody was taken for interrogation, and they were later arrested in the present case. During their interrogation, the accused Kaushal disclosed that Sajjan, alias Bholu had fired gunshots at the deceased. Accused Amit Daggar disclosed in his interrogation that Anil Lath had also fired gunshots at the deceased.

8. On Jan 13, 2022, the Senior Superintendent of Police, SAS Nagar, constituted a special investigation team (SIT) to carry on the investigation further.

9. On April 06, 2022, the complainant stated before the SIT that one Ajay alias Sunny alias Lefty was also one of the assailants who had fired upon his brother and was under arrest with Delhi Police in a case registered on 14-02-2022 under the Arms Act, 1959. The inquiry from their counterparts confirmed the custody of Ajay, Sajjan alias Bholu, and Anil Lath. Delhi police had already recorded their disclosure statements which pointed out towards their involvement. On Apr 25, 2022, the production warrants were issued, and their custody was transferred to SIT, which brought them from Tihar jail, Delhi, and arrested them in the present

case. During their interrogation by SIT, they disclosed that the petitioner was the main conspirator behind the assassination of Vicky Middukhera. The accused, Anil Lath and Sajjan alias Bhola, further disclosed that Ravinder Chauhan had provided them the phone number 93508-45193, an i20 car, and two 30-bore pistols along with 30-40 live cartridges. During his interrogation, the accused Ajay alias Sunny alias Lefty informed that he had joined hands with Anil Lath and Sajjan Bholu to eliminate Vicky Middukhera on the asking of Bhupinder Singh alias Bhupi Rana. Based on such information, the SIT arraigned Bhupinder Singh as an accused, and since he was also in custody, his production warrants were obtained. The SIT arraigned the said Ravinder Chauhan as an accused; however, he could not be arrested till the date of the status report, i.e., July 5, 2022. Accused Gaurav Patial alias Lucky had fled to Armenia, where he was arrested but now is on bail. He is yet to be arrested in the present case.

10. At the initial stage of the investigation, it had been noticed that the registration number plate of the i20 car used in the crime was fake. Pursuant to their disclosure statements, the accused Anil Lath, Sajjan alias Bholu and Ajay alias Sunny got recovered three country-made .30 bore pistols, one country-made 9 MM pistol along with eight live cartridges, and the i20 car along with its original number plate HR-51BX-1258 and also the fake number plate PB-65AK-7530. In relation to the petitioner, the investigation revealed that accused Anil lath, Sajjan alias Bholu, and Ajay alias Sunny, along with Sombir, who was an associate of Lucky Patial, had a meeting with the petitioner Shagun Preet Singh at a Gurudwara Sohana Sahib, Mohali, and the petitioner entrusted them with the task of killing Vicky Middukhera. The petitioner informed the contract killers that Vicky Middukhera visited a gym in the morning. The petitioner made arrangements for their stay and food at Jalvayu Vihar, Kharar. He also made Anil Lath talk with Lucky Patial through the Signal app and showed them the photograph of Vicky Middukhera on mobile. The following morning, at around 5 AM, the petitioner picked them up from Jalvayu Vihar and went to Sunny Enclave market, where they got the number plates of the i20 car replaced with the fabricated plates. Later, they followed Vicky Middukhera and noticed him sitting in the property dealer's office and his car parked outside. On his return to the car, Sajjan, alias Bholu, Ajay alias Sunny fired gunshots at Vicky Middukhera, and at that time, Sombir was waiting in the car. To save from assault, when he ran towards the road, Anil Lath fired 3-4 shots from his car. Due to such shots, he

fell down, got up, and ran towards the park, where Ajay, alias Sunny followed him and shot him dead.

11. The SIT joined Parth Prashar alias Big Smoke and Ranjodh Singh alias Jodh and recorded their statements under section 161 CrPC. They stated that on Aug 6, 2021, at around 1/2 PM, Shagun Preet Singh, the petitioner, had taken silver color Swift car no. PB-65BA-1836 of Jatinder Singh Sohal from Sector 91 Mohali and parked his Fortuner vehicle there. After that, Shagun Preet Singh made a phone call from his mobile with phone number 9878100066 to Jatinder Sohal on his mobile with phone number 9023511255 and asked him to make arrangements for the stay of his special guest employed with an IT company. On this Jatinder Sohal asked Ranjodh Singh alias Yodha to take care of them. The investigation further revealed that on the evening of Aug 6, 2021, Shagun Preet Singh dropped his so-called friends at the Jalvayu Vihar residence of Jatinder Sohal. On the next day, i.e., Aug 7, 2021, at 5-6 AM, Shagun Preet Singh returned the Swift car and picked the assailants from the Jalvayu Vihar residence of Jatinder Sohal, and after that Vicky Middukhera was shot dead. Based on the call details obtained from the mobile service provider, on Aug 6, 2021, the mobile phone of the petitioner, Shagun Preet Singh, was found switched on in the areas of Gurudwara Shri Sohana Sahib and Jalvayu Vihar, and Kharar; and on Aug 7, 2021, again at Jalvayu Vihar and Kharar.

12. Mr. Vinod Ghai, Ld. Sr. Advocate, representing the petitioner, submitted that the petitioner never absconded from India and had gone to Australia to meet his friends. The further submission on behalf of the petitioner is that the petitioner has no role in any gang and has no motive for killing any person, including the deceased Vicky Middukhera. The counsel submitted that police have admitted in Para 11 of the status report that the statement of the complainant was allegedly recorded on 06.04.2022, and the accused Ajay @ Sunny @ Lefty was identified. It is admitted by police that the information received from police station Special Cell Delhi on 09.04.2022 about the arrest of accused persons Ajay @ Sunny, Anil Lath, and Sajjan @ Bholu. Anil Lath, Sajjan, and Ajay were shown to be brought from Delhi on 25.04.2022 on production warrants. Thus, till 25.04.2022, there was not even a disclosure in the FIR in question qua the present petitioner. Based on the seventh disclosure statement, the petitioner was involved, showing that the police were fishing for the evidence. A disclosure statement in Section 27 of the Indian Evidence Act, 1872,

demands the discovery of a material thing and not that of the complicity of another person, and the police could not find or collect any such evidence. Ld. Counsel further contended that there are allegations by the police that statements under section 161 CrPC of one Parth Prashar and Ranjot Singh were recorded qua the facts of 06.08.2021 that petitioner had taken swift car of Jatinder Singh Sohal and had left behind his Fortuner car, but nothing was averred about the date of such statements, nor any technical evidence supports them. Ld. Counsel submits that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

13. Mr. Gaurav Garg Dhuriwala, Sr. Deputy Advocate General, representing the State, strenuously opposes bail and states that after the registration of FIR No. 168 (Supra), the case investigation started, and (A-1) Saurav Thakur @ Gaurav Patyal @ Lucky Saurav was arraigned as an accused on the day of registration of FIR, i.e., 07.08.2021 based on the supplementary statement of the complainant. Further, on the statement under section 161 of the complainant accused (A-2), Kaushal was nominated on 17.09.2021. During the further investigation, accused (A-3) Amit Daggar was nominated on 11.09.2021 on the statement under section 161 of the complainant. Further accused (A-4) Sajjan @ Bholu was nominated on 23.09.2021 on the questioning of accused Kaushal. That accused (A-5) Anil @ Lath was nominated on 03.11.2021 during the questioning of Amit Daggar. That accused (A-6) Dharminder Singh @ Gugni was nominated on 08.11.2021 on the questioning of Amit Daggar. That accused (A-7) Ajay @ Sunny @ Lefty was nominated on 06.04.2022 on the statement under section 161 of the complainant. Further, on 10.04.2022, accused (A-8) Shagan Preet Singh (Petitioner) was nominated based on the disclosure statement dated 04.04.2022 of Ajay @ Sunny @ Lefty, which was recorded in FIR No. 38 dated 14.02.2022 under section 25 arms act Police Station Special Cell, New Delhi. That the record of FIR No. 38 (Delhi) was called by the Mohali/SAS Nagar Police based on the said record and above said disclosure statement. Shagan Preet Singh was nominated following the law. The accused (A-9) Ravinder Chauhan was nominated on 28.04.2022 based on the questioning of Anil Lath and Sajjan @ Bholu, and the accused (A-10) Bhupinder Singh @ Bhuppi Rana was nominated as accused on 28.04.2022 on questioning of Ajay @ Sunny @ Lefty. Mr. Gaurav Garg Dhuriwala, Ld. Sr. DAG for the State of Punjab argued that custodial

interrogation of the petitioner is required to know the other chief pins and gangsters involved in this murder. Ld. counsel contended that gangs and their rivalries to control more and more pockets of areas are increasing, which is likely to pose a severe security risk to the people and to the unity and integrity of the country.

14. Mr. R.S.Rai Ld. Sr. Advocate contended on behalf of the complainant that all the persons responsible for the assassination be brought to justice. Ld. counsel contended that Ajaypal Singh had seen the assailants and noticed them in CCTV footage. To trace the assailants, he regularly monitored news channels and social media sites about gangsters in various parts of India. After the arrest of accused Ajay alias Sunny alias Lefty, Anil alias Lath, and Sajan alias Bholu, their photographs were circulating on social media, and in early April 2022, the information spread on social media platforms that these persons were the same who were seen in CCTV footage. The complainant made a statement about their involvement on April 6, 2021, whereas the petitioner had somehow come to know about the identification of these three assailants because of the wide circulation on social media platforms and bought an unscheduled ticket for Australia and took a flight on the intervening night of April 5-6, 2022. Mr. R.S.Rai Ld. Sr. Advocate further argued that although the petitioner had returned from Dubai only on April 02, 2022, he abruptly took a flight for April 05, and the purpose of such flight has been admittedly declared to be only to meet friends. Regarding the motive for murder, Mr. R.S.Rai contended that the petitioner Shagun Preet Singh got Vicky Middukhera murdered because of the rivalries between different criminal gangs run by the gangsters primarily hailing from Punjab but now based in and outside India. The complainant is apprehending a threat to his life and has already represented SSP Mohali regarding death threats from the petitioner Shagun Preet Singh.

15. The *prima facie* legally admissible evidence collected by the investigating agency pointing out Shagun Preet Singh's involvement emerges from CCTV footage and through witnesses Parth Prashar and Ranjodh Singh. Two assailants are identifiable in the video recording of the CCTV camera, wherein one of the assailants was seen holding a pistol in his left hand. The witnesses Parth Prashar and Ranjodh Singh stated that on August 6, 2021, during mid-day, Shagun Preet Singh had taken silver color Swift car no. PB-65BA-1836 of Jatinder Singh Sohal from Sector 91 Mohali and parked his Fortuner vehicle there. He had then made

a phone call from his mobile with phone number 9878100066 to Jatinder Sohal on his mobile with phone number 9023511255 and asked him to make arrangements for the stay of his special guest employed with the IT company. On this, Jatinder Sohal asked Ranjodh Singh to take care of them. On the next day, i.e., August 7, 2021, at 5-6 AM, the petitioner returned the Swift car. Thus, based on these statements, the police collected evidence to establish that on the evening of August 6, 2021, Shagun Preet Singh dropped the assailants at the Jalvayu Vihar flat of Jatinder Sohal. His Fortuner vehicle also remained parked at that place, and he had driven the swift car. This corroboration was done by obtaining call details and the tower location of the petitioner from the mobile service provider. On August 6, 2021, the petitioner's mobile phone location was found in Gurudwara Shri Sohana Sahib and Jalvayu Vihar, and Kharar; and on August 07, 2021, again at Jalvayu Vihar and Kharar. This *prima facie* suggests the presence of Shagun Preet Singh with the four assailants in that area and the proximity of the petitioner.

16. The second set of evidence particularly relevant for bail consideration is the petitioner's conduct of absconding from India just at the nick of time. The purpose of the visit admittedly was to meet the fraternity but he has not disclosed any urgency for the same. Shagun Preet Singh had not purchased the air ticket well in advance but had bought it very close to the flight date. Moreover, he did not buy a return ticket. The complainant made a statement about the involvement of shooters on April 6, 2021, whereas the petitioner took a flight on the previous night. The petitioner did not explain the purpose of his hasty unscheduled travel to Australia, which points out that he has tried to flee from Justice.

17. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a *prima facie* case against him, or despite the existence of a *prima facie* case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. In State of Rajasthan v Balchand, AIR 1977 SC 2447, (Para 2 & 3),

Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In GudikantiNarasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

18. On *prima facie* analysis of the sets of evidence mentioned above and in the light of the ratio of the judicial precedents mentioned above, the petitioner's case does not fall in the category of cases where bail ought to be granted. The allegations are serious and offence heinous. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

19. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is *prima facie* of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. PadamNarain Aggarwal (2008) 13 SCC 305].

20. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

21. A perusal of the status report establishes that the prosecution has collected sufficient evidence pointing out a *prima facie* case against Shagun Preet Singh. The petitioner made arrangements for the assailants to stay in a private flat instead of a rest house or a hotel to avoid creating evidence about their presence in the area through identification documents required for a stay; arranging a private car with a fake number, making them travel not in his car but of someone else so that his location and identification does not take place; his mobile phone location, and the spot of crime in the same signal zones of mobile towers, which also covered the areas where the crime took place; the petitioner's conduct of flying away at the brink of time, are the incriminating circumstances pointing towards his involvement and suggestive of his attempt of fleeing from justice and thwarting it's course. The crime is exceptionally grave, of immense importance to law and order, and raises serious concerns about an uprising of gangsters in the region. Unfolding this crime is required to get to know the conspiracies being hatched to raise some cause taking advantage of the gang rivalries or in disguise of the gangs. For that, custodial interrogation is the only option that remains on the table. Without commenting on the case's merits which is the subject matter of the criminal trial, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

22. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms.All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

July 18, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.