

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

Date of Reserve: 14.12.2022

Date of Decision: 16.12.2022

**CRM No.47927 of 2022 in/and
CRM-M No.46671 of 2022 (O&M)**

Bhupinder Singh

.....Petitioner

Vs

State of Punjab and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Dr. Puneet Kaur Sekhon, Advocate
for the petitioner.

Mr. Sanjeev Soni, Addl. A.G., Punjab.

Mr. Amardeep Singh, Advocate
for respondents No.2 and 3.

RAJ MOHAN SINGH, J.

CRM No.47927 of 2022

For the reasons mentioned in the application, the same is allowed. Accompanying short reply by way of affidavit on behalf of respondents No.2 and 6 along with Annexures R/1 to R/7 is taken on record, subject to all just exceptions.

Main case

[1]. The petitioner has preferred this petition under Section 439(2) read with Section 482 Cr.P.C. for cancellation of regular

bail granted to the respondents No.2 and 3 vide orders dated 22.07.2021 and 10.08.2021 passed in CRM-M No.21992 of 2021 and CRM-M No.30700 of 2021 respectively in case bearing FIR No.14 dated 14.01.2021, registered under Sections 302, 148, 149 IPC and Section 25 & 27 of the Arms Act at Police Station Division B, Amritsar.

[2]. Perusal of the orders passed in the aforesaid petitions would indicate that the FIR in question was registered at the instance of the complainant/petitioner with the allegations that his son namely Jagdish Singh @ Disha was aspirant of contesting election from a political party, but the respondent No.2 and his sons did not want him to contest the election of the councillor. They threatened him visiting to the house, but the son of the complainant kept on preparing for contesting the election. On 13.01.2021 i.e. on the day of Lohri festival, the complainant and his son were present at the roof of their house. Son of the complainant was flying kite. The respondents No.2 and 3 along with Sukhchain Singh @ Raja, Mandeep Singh @ Laada and 12-13 unidentified persons were consuming liquor at the roof of house of the respondent No.2. They were shouting loudly at the son of the complainant and were abusing by using bad words. The complainant along with his son went to the house of respondent No.2 and told them not to do so. On this,

the respondent No.2, his sons and other companions started throwing brick bats at the complainant and his son. Son of the complainant took out his revolver in his defence but did not fire. The respondent No.2 raised a *lalkara* and Sukhchain Singh @ Raja fired at the son of the complainant and the bullet struck in his chest. The son of the complainant fell down and raised alarm. Thereafter Mandeep Singh @ Laada took the pistol from Sukhchain Singh @ Raja and fired upon the son of the complainant. Thereafter the assailants ran away from the spot.

[3]. In the supplementary statement of the complainant, name of Dilbagh Singh @ Baga was also added, who is nephew of the respondent No.2. He was also allegedly involved in brick batting. The alleged firing was done by Sukhchain Singh @ Raja and thereafter by Mandeep Singh after taking the pistol from Sukhchain Singh @ Raja. Sukhchain Singh @ Raja is in custody. No roles have been attributed to the respondents No.2 and 3 except to allege that the respondent No.2 raised *lalkara* and respondent No.3 was allegedly involved in brick batting.

[4]. This Court vide order orders dated 22.07.2021 and 10.08.2021 passed in CRM-M No.21992 of 2021 and CRM-M No.30700 of 2021 respectively granted regular bail to the respondents No.2 and 3 in view of no specific roles attributed to them.

[5]. Learned counsel for the petitioner with reference to the transcription of conversation between the unknown person from mobile No.8902859534 to Malkiat Singh witness on his mobile No.8905162488 submits that the timing of alleged threat and use of vulgar language against the witness is crucial showing that the accused party as a whole is instrumental in threatening the witness.

[6]. Notice of motion was issued on 12.10.2022. As per short reply filed by the State by way of affidavit of Sh. Gurpartap Singh Sahota, PPS, Assistant Commissioner of Police, South, Amritsar City on behalf of respondent No.1, the allegations of the petitioner have been inquired into. Para Nos.6, 7, 8 and 11 of the said reply are reproduced herein as under:-

“6. That insofar as the contentions being raised in the present petition with regard to extending threats by the respondents No.2 & 3 in connivance with other persons to the eye witness Malkiat Singh in order to making pressure upon Malkiat Singh and petitioner for effecting compromise and not deposing before the Ld. Trial Court, are concerned, it is submitted that the petitioner had given applications bearing No.32142-PGD dated 15.9.2020, 53040-PGD dated 17.10.22, 1748-ADGP dated 20.10.2022, 42118-PGD dated 30.9.22 in this respect at the office of Commissioner of Police, Amritsar.

7. That enquiry qua the aforementioned applications given by the petitioner has been conducted by Sub-Inspector Arun Kumar, In-charge of Police Post Shaheed Udham Singh Nagar of Police Station B-Division, Amritsar City in a fair and impartial manner. During course of enquiry statement of the petitioner was recorded and the call recording containing in one pen drive produced by the petitioner was heard carefully.

8. That the petitioner alleged that his nephew Malkiat Singh, who is an eye witness in the aforesaid case, has been receiving repeated threatening calls from mobile phone numbers 8902859534, +35677915319, 8284805272, +1778655770. Therefore, back sleep of the aforesaid mobile numbers +35677915319 and +1778655770 was obtained, which was found nil. Upon obtaining CDR of the above said mobile numbers 8902859534 and 8284805272, the same were found switched off and the name of the subscriber was found Sukhchain Singh s/o Salwinder Singh r/o H.No.27, Gali Gabbar wali, Sher Shah Suri road, Kupatgarh, Chheharta, Amritsar. Sukhchain Singh was joined in the enquiry, who stated that though the above said SIMs are in his name, but the same are not being operated by him rather the same were given to some unknown person about one year ago on asking of his uncle-in-law Sukh Singh S/o Gurmukh Singh r/o Burewal, PS Ajnala, Amritsar, who is now in judicial custody at Central Jail, Amritsar since last about one year. As such, the actual user(s) of the

aforesaid mobile phone numbers, could yet not be traced.

*11. That since the petitioner has apprehended and alleged that the nephew of the petitioner namely Malkiat Singh, who is an eye witness in this case and his testimony is yet to be recorded before the Ld. Court, hence the petitioner has been advised that whenever the testimony of the petitioner and his nephew Malkiat Singh would be recorded before the Ld. Trial Court, they should inform the local police one day prior to that date, so that necessary arrangements for their protection could be made in order to thwart any untoward incident. The above said applications have been recommended to be filed and consigned to record room. However, necessary and appropriate directions have been issued to SHO PS B-Division, Amritsar City to ensure safety and security of the petitioner. The report submitted by SHO PS B-Division, Amritsar is annexed herewith as **Annexure R-2/T** for the kind perusal of this Hon'ble Court. Therefore, the present petition is liable to be dismissed.”*

[7]. Evidently, the role of the respondents No.2 and 3 could not be established in the context of giving any threat call to the complainant and the witness. The name of subscriber was found to be Sukhchain Singh s/o Salwinder Singh r/o H.No.27, Gali Gabbar wali, Sher Shah Suri road, Kupatgarh, Chheharta, Amritsar. The said Sukhchain Singh was joined in the enquiry and stated that though the SIMs of the mobile are in his name,

but the same are not being operated by him, rather the same were given to some unknown person about one year ago on the asking of this uncle-in-law Sukh Singh s/o Gurmukh Singh. The aforesaid Sukhchain Singh s/o Salwinder Singh is proved to be a different Sukhchain Singh. The main accused Sukhchain Singh is son of respondent No.2 and is still in custody. While parting with the reply, the State has pointed out that in case of any threat before the date of evidence in the case, the complainant-party may inform the concerned Police Station one day prior to the date and the Police would make necessary arrangements for the protection of the witness.

[8]. On consideration of the material on record, I find no ground to cancel the regular bail granted to the respondents No.2 and 3. No interference is called for in this petition. The same is accordingly dismissed.

December 16, 2022

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No