

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

CRM-M-52756-2021 (O&M)

(1) Gurbachan Singh ...Petitioner

Versus

State of Punjab ...Respondent

(2) **CRM-M-13281-2022 (O&M)**

Manga Singh ...Petitioner

Versus

State of Punjab ...Respondent

(3) **CRM-M-567-2022 (O&M)**

Sukhpal Singh @ Chawanni ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision:- 19.7.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Rao Ajender Singh, Advocate for the petitioner
in CRM-M-52576-2021.

Mr. H.R. Bhardwaj, Advocate for the petitioner
in CRM-M-13281-2022.

Mr. Sarabjeet Singh Grewal, Advocate for the petitioner
in CRM-M-567-2022.

Mr. Tanvir Joshi, AAG, Punjab
assisted by ASI Gian Chand.

Mr. Naveen Sharma, Advocate, for the complainant.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned three petitions filed on behalf of Gurbachan Singh, Manga Singh and Sukhpal Singh @ Chawanni seeking grant of regular bail in a case registered against them vide FIR No. 148 dated 10.7.2020 under Sections 302, 364, 201, 120-B, 323, 148, 149 IPC at Police Station Maur, District Bathinda.
2. The FIR was lodged at the instance of Balvir Kaur, wherein it is alleged that on 9.7.2020 at about 8:00 p.m., her son Amrinder Singh @ Manja had gone for a walk in a park after taking meals, but did not return back. When the complainant went towards the park to look for her son, she noticed a Maruti car and the occupants of the same were Kharaji Singh, Sukhveer Singh @ Soni, Lakhvir Singh and Manga Singh, who were accompanied by 4/5 unidentified persons on motor-cycles. It is alleged that the said persons forcibly pushed complainant's son in the car. Although, the complainant, who was also accompanied by Jaswinder Singh @ Judge, tried to restrain them, but the assailants caused injuries to Jaswinder Singh and fled away from the spot. On the next day in the morning, the complainant's son-in-law Gagandeep Singh informed that dead body of Amrinder Singh was lying in the bushes in the area of village Maur Charat Singh. The complainant, thus, alleged that Kharaji Singh, Sukhveer Singh, Lakhvir Singh and Manga Singh accompanied by 4-5 unidentified persons had forcibly abducted her son and murdered him and that the motive for murder of her son was that previously there had been a quarrel between her son and Kharaji Singh and others.

3. The learned counsel representing the petitioners Gurbachan Singh and Sukhpal Singh have submitted that the petitioners are not named in the FIR and came to be nominated in the second supplementary statement of the complainant Balvir Kaur, which infact does not inspire confidence.
4. The learned counsel representing the petitioner Manga Singh has submitted that although the petitioner is named in the FIR but no specific role has been attributed to him and that since another co-accused Jaspal Singh had already been extended the concession of bail vide order dated 6.10.2021, the petitioner also deserves the same concession on grounds of parity.
5. Opposing the petitions, the learned State counsel assisted by counsel for the complainant submitted that the complainant being the mother of the deceased was in a state of shock when the FIR was lodged shortly after murder of her son and could not disclose the names of all the accused but subsequently, she had come to know about the involvement of all the accused and had accordingly made a supplementary statement. It has further been submitted that during the course of investigation, the police had come across audio-conversation between the petitioners Sukhpal Singh and Gurbachan Singh from which it can clearly be discerned that all the accused have joined hands to eliminate the deceased i.e. son of the complainant. It has also been submitted that the petitioner Manga Singh, in any case, is named in the FIR and as such, cannot escape from his liability. The learned State Counsel has, however, informed that while petitioner Manga Singh has been in custody since the last about 2 years, other petitioners Sukhpal Singh and Gurbachan Singh have been behind bars since the last about 1½ years

and 1 year respectively. It has also been informed that while Manga Singh is involved in 4 other cases, Sukhpal Singh and Gurbachan Singh are involved in one case each.

6. I have considered rival submissions addressed before this Court.
7. As far as the petitioner Manga Singh is concerned, this Court finds that he is specifically named in the FIR and had been identified by the complainant at the spot and his complicity is evident. The petition qua Manga Singh, as such, is dismissed.
8. Insofar as the other two petitioners namely Gurbachan Singh and Sukhpal Singh are concerned, they are nowhere named in the FIR and came to be nominated as accused in the second disclosure statement made by the complainant. It may here be mentioned that initially challan was presented against Manga Singh, Shivraj Singh, Lakhvir Singh, Sukhvir Singh and Jaspal Singh on 23.9.2020. However, the complainant submitted a representation to senior officers of police stating therein that Sukhpal Singh and Gurbachan Singh are also involved. Said representation was inquired into. Permission of Court was taken for conducting further investigation. Thereupon, second supplementary statement of complainant was recorded. The relevant extract from second supplementary statement of complainant Balvir Kaur as extracted from the report under Section 173(8) Cr.P.C. (annexed as Annexure P-2 in CRM-M-52756-2021), indicating the involvement of petitioners Gurbachan Singh and Sukhpal Singh reads as follows :-

“A few days ago, accused in the above said case namely Jaspal Singh @ Athani’s brother Sukhpal Singh @ Chawani son of Bohar Singh resident of Maur Kalan came to my house. At that time, my son-in-law Gagandeep Singh son of Kulwant Singh resident of Saran Wali, District Ferozepur was present in the house alongwith me. Then Sukhpal Singh @ Chawani told us that Gurbachan Singh @ Baba son of Kartar Singh resident of Maur Kalan has hatched a conspiracy for murder of your son Amarinder Singh @ Manja. He had on many occasions called orally as well as on phone incited us to cause injuries to Amarinder Singh @ Manja and I am having phone recording wherein Gurbachan Singh is asking for causing injuries to Amarinder Singh @ Manja. He requested us not to take any action against his brother Jaspal Singh @ Athani. At this, after taking Sukhpal Singh @ Chawani in confidence, we obtained his phone Vivo colour black. Thereafter, we heard mobile recording in the same, wherein Gurbachan Singh @ Baba can be heard inciting Sukhvir Singh @ Soni, who is an accused in the above mentioned FIR and Sukhpal Singh @ Chawani for causing injuries to my son Amarinder Singh @ Manja and also encouraging them.....”

9. The aforesaid audio-conversation would show the involvement of the petitioner Sukhpal Singh and also Gurbachan Singh, though of course, the same would be subject to the admissibility of the audio-conversation in accordance with provisions of Section 65-B of Indian Evidence Act. In any case, it will also be debatable as to whether the audio-conversation establishes intention of petitioners Sukhpal Singh and Gurbachan Singh only to the limited extent of causing injuries or as to whether the same extended to causing murder of the deceased, as there is no mention of murder in the

said audio-conversation. In these circumstances, the role of the petitioners Gurbachan Singh and Sukhpal Singh would be distinct from the role of Manga Singh and as such, they can be extended the concession of bail.

10. The petitions qua Gurbachan Singh and Sukhpal Singh, as such, are accepted and the petitioners Gurbachan Singh and Sukhpal Singh are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. The petition qua Manga Singh stands dismissed, as discussed in earlier part of this order.
11. A photocopy of this order be placed on the file of connected cases.

19.7.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No