

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7150-2023 (O&M)
Date of Decision: 12.07.2023

(I)
Dilbagh Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CRM-M-11488-2023 (O&M)

(II)
Lakhbir Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON’BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Karnail Singh Ahhi, Advocate,
for the petitioner in CRM-M-7150-2023.

Ms. G.K.Mann, Sr. Advocate with
Mr. Gursharan Singh, Advocate;
Ms. Komal Balain, Advocate and
Mr. Anmol Jeevan Singh, Advocate
for the petitioner in CRM-M-11488-2023.

Mrs. Rupinder Kaur Thind, Advocate, for the complainant.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. Both the petitions are taken up together for final disposal with

the consent of learned counsel for the parties since both the petitions arise out of the same FIR and the prayer in both the cases is for grant of regular bail.

2. Both the petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in FIR No. 46 dated 25.04.2022, under Sections 302, 307, 326, 323, 148, 149 of IPC, 1860 and Sections 25, 27, 54, 59 of the Arms Act, 1959, registered at Police Station Kamboj, District Amritsar (Rural).

3. As per the allegations contained in the FIR, it was alleged on the basis of statement made by Kunan Singh son of Darshan Singh that he is an agriculturist and there was a joint holding of 16 acres comprising of 3 houses and he is cultivating the land and also residing in the Dera situated in the land along with his family members. There was a dispute with regard to *Khasra Girdawari* as well. On 25.04.2022, the present two petitioners and the other co-accused had forcibly entered into the land and a fight had taken place and as per the FIR, one of the co-accused namely Jaspal Singh fired straightway with 315 bore gun which resulted into injury on the left jaw of deceased Ajay Pal Singh and one of the petitioners namely Dilbagh Singh fired from his 12 bore rifle with caused injury on one Jaspal Singh son of Kanwaljit Singh on his left thigh and the other petitioner namely Lakhbir Singh was carrying a *datar* but as per the FIR, no specific role was attributed to him.

4. Ms. G.K.Mann, learned Sr. Advocate appearing on behalf of petitioner-Lakhbir Singh submitted that so far as the petitioner namely Lakhbir Singh is concerned, he has been unnecessarily dragged into fight

between two parties since he is only a servant of the other petitioner namely Dilbagh Singh as he works in his field. She submitted that so far as petitioner Lakhbir Singh is concerned, he has neither any intention nor any role has been attributed to him since he has no motive with regard to the fight pertaining to dispute of land and *Khasra Girdawari* of two parties and he being a servant has been unnecessarily dragged into the FIR and apart from the above, no role has been attributed to the present petitioner namely Lakhbir Singh. She submitted that so far as petitioner Lakhbir Singh is concerned, he has already faced incarceration for more than 1 year and 2 months. The investigation of the case has already been completed and charges have already been framed on 01.05.2023 but no prosecution witness has been examined. She submitted that the petitioner is having clean antecedents and he is not involved in any other case. The trial of the case may take long time and, therefore, the petitioner may be considered for the grant of regular bail.

5. Mr. Karnail Singh Ahhi, Advocate appearing on behalf of petitioner-Dilbagh Singh submitted that so far as the petitioner-Dilbagh Singh is concerned, he has also been falsely implicated in the present case as he was not even part of the unlawful assembly. While referring to the FIR, he submitted that even as per the FIR, the main allegations are against one Jaspal Singh who happens to be the brother of the petitioner. Even as per the FIR, it was Jaspal Singh who had hit upon deceased Ajay Pal Singh. So far as the petitioner is concerned, the role attributed to the petitioner as per the FIR was that he has fired from his 12 bore rifle upon one Jaspal Singh son of Kanwaljit Singh and injury was caused. He submitted that he was neither

carrying any 12 bore rifle nor any recovery has been effected from the petitioner. There has been no medical examination of the aforesaid Jaspal Singh son of Kanwaljit Singh. Therefore, so far as petitioner-Dilbagh Singh is concerned, he was also falsely implicated only because of the fact that he is brother of the other co-accused namely Jaspal Singh. He submitted that in fact the other party had forcibly entered into the land and consequently, a cross case was also registered in this regard on the complaint made by the petitioner-Dilbagh Singh and injury has been caused to Dilbagh Singh. He submitted that the petitioner-Dilbagh Singh was not present at the place of occurrence when the injuries were caused to deceased Ajay Pal Singh, but he was caused injuries at the time when he was at home. He further submitted that it is yet to be ascertained at the time of trial as to who was the aggressor party and who had acted in self defence. He also submitted that the petitioner-Dilbagh Singh has no criminal antecedents and he is not involved in any other case. He has also submitted that the petitioner is 72 years of age and is suffering from various ailments and the trial of the case may take long time and, therefore, the petitioner may be considered for the grant of regular bail.

6. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab has submitted that so far as the custody period of both the petitioners is concerned, the same is correct. The investigation of the case has been completed and charges have been framed on 01.05.2023. He has however opposed the grant of regular bail to the petitioners on the ground that the petitioners and other co-accused have collectively attacked on the complainant party and on the basis of firearm shot from 315 bore made by one of the co-

accused namely Jaspal Singh, death of one Ajay Pal Singh was caused. He submitted that so far as the present two petitioners are concerned, they were also part of the unlawful assembly and although the role attributed to Lakhbir Singh is hitting by way of *Datar* and role attributed to the other co-accused namely Dilbagh Singh is firing on the other injured. Since they were also part of the unlawful assembly, they do not deserve the concession of regular bail.

7. Mrs. Rupinder Kaur Thind, Advocate appearing on behalf of the complainant also opposed the grant of regular bail as both the petitioners were also part of the unlawful assembly and they have caused injuries on the complainant party.

8. I have heard the learned counsel for the parties.

9. Both the petitioners are in custody for more than 1 year and 2 months. The investigation of the case is complete and charges have been framed. It is a cross case wherein the present petitioners have also lodged DDR/FIR against the complainant party. As per the allegations contained in the FIR, the deceased namely Ajay Pal Singh was killed by the firearm which was shot by one co-accused namely Jaspal Singh. Even as per the prosecution the role of the petitioner-Lakhbir Singh was having a *datar* in his hand but there is nothing in the FIR to show that he had attacked with *datar*. So far as the other co-accused namely Dilbagh Singh is concerned, he is stated to be 72 years of age and as per the learned counsel for the petitioner, he had fired from his 12 bore rifle upon one Jaspal Singh son of Kanwaljit Singh which hit on his left thigh but no medical examination was conducted.

10. During the course of arguments, a specific query was raised to

both the learned counsel for the State and learned counsel for the complainant to verify the fact as to whether any medical examination of Jaspal Singh son of Kanwaljit Singh on whom the injury attributed to petitioner Dilbagh Singh is concerned was conducted or not to which they stated that no medical of Jaspal Singh son of Kanwaljit Singh was conducted.

11. In view of the aforesaid facts and circumstances and also considering the facts that both the petitioners are stated to be not having any criminal antecedents and not involved in any other case and apart from the above, it is yet to be ascertained at the time of trial as to who was the aggressor party and who has acted in self defence, both the petitions are allowed. Both the petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

12. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

12.07.2023

rajeev (rvs)

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No