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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 16.10.2023

HARJINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

Mr. Lupil Gupta, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.22 dated 01.04.2017 registered under Sections 302, 307, 452, 427, 506, 148, 149 IPC, 1860 and Sections 25, 27, 30 of Arms Act, 1959 at Police Station Valtaha, District Tarn Taran.

2. The present FIR came to be registered at the instance of Budh Singh son of Pritam Singh who stated that he and his brothers Kulwant Singh @ Gullu and Harbhajan Singh @ Pappu were running a joint Atta Chakki business. Adjoining to their Chakki, there was Panchayat land which had been in their (complainant's party) possession. A Pakka wall had been raised a few months ago. On the night intervening 31.03.2017/01.04.2017, at about 10.00 PM when he (complainant) and his brother Kulwant Singh @ Gullu

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(deceased), son Gurwinder Singh (deceased) and sister-in-law Paramjit Kaur wife of Kulwant Singh @ Gullu along with his other brother Harbhajan Singh @ Pappu were taking to each other, then at that time, about 10/15 persons came and started demolishing the wall. The said persons started throwing bricks towards them (complainant party). When they (complainant party) tried to run towards the Chakki to save themselves, then 10/15 persons from the roof of Ajit Singh @ Jagjit Singh, Jaswant Singh son of Teja Singh started firing gunshots with an intention to kill them. When they tried to enter into the Chakki room, then Sarwan Singh @ Kalu son of Baaj Singh armed with a 12 bore DBBL, Ajit Singh @ Jagjit Singh son of Teja Singh Mistri armed with a DBBL, Nirbhai Singh, Jaswant Singh sons of Teja Singh armed with Dangs, Amar Singh son of Ajit Singh Mistri empty-handed, Kuldeep Singh @ Lada son of Mukhtiar Singh Mistri empty-handed, Harjit Singh son of Gurlal Singh armed with a DBBL 12 bore, Gurpreet Singh @ Lada son of Gurpal Singh armed with a DBBL 12 bore, Raj Singh son of Tarlochan Singh armed with a DBBL 12 bore, Sarabjit Singh @ Babbu son of Darshan Singh armed with a DBBL 12 bore, Harchand Singh son of Hardip Singh armed with a DBBL 12 bore, Gurpal Singh son of Virsa Singh armed with a Takua along with 15/16 unidentified persons came into their compound raising an alarm. Nirbhai Singh along with others raised a Lalkara and stated that Kulwant Singh @ Gullu was to be caught-hold off and the others ought not to be left alive and they be taught a lesson for a raising dispute. On hearing this, Sarwan Singh @ Kalu fired a direct shot of his DBBL 12 bore towards them (complainant party) which struck Kulwant Singh @ Gullu on his

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forehead. They (complainant party) shifted Kulwant Singh @ Gullu into the Chakki room and closed the door. However, these persons broke the side door of the Chakki and entered. Then Ajit Singh @ Jagjit Singh with his DBBL 12 bore fired a direct gunshot towards his (complainant's) son Gurwinder Singh with an intention to kill him which struck him (Gurwinder Singh) on his chest. Then Sarwan Singh @ Kalu fired another shot of his DBBL 12 bore towards Kulwant Singh @ Gullu which struck his abdomen. Then Gurpreet Singh @ Lada fired a 12 bore DBBL shot towards Gurwinder Singh which struck his forehead. Then Amar Singh snatched the gun from his father Ajit Singh @ Jagjit Singh and fired a gunshot towards him (complainant) which struck his right leg. Then Sarabjit Singh alias Babbu fired a shot from his DBBL bore, directly towards his sister-in-law Paramjit Kaur which struck her left arm. Then Harjit Singh fired a shot from his DBBL 12 bore towards Paramjit Kaur with an intention to kill her which struck her abdomen. Then Harchand and Raj Singh fired gunshots from their DBBL 12 bore guns in the air. On raising an alarm, people gathered at the spot after which the accused persons fled away. In the meantime, Punjab Singh Nambardar, Gurwinder Singh son of Bachan Singh along with some other persons came to the spot and his (complainant's) brother Kulwant Singh @ Gullu, son Gurwinder Singh and sister-in-law Paramjit Kaur were taken to Dhawan Hospital, Bhikhiwind but Kulwant Singh @ Gullu and Gurwinder Singh succumbed to their injuries whereas Paramjit Kaur was admitted in the Hospital. The motive for the occurrence was that Ajit Singh @ Jagjit Singh, Nirbhai Singh and Jaswant Singh etc. wanted to make a 10 ft.

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wide street forcibly. On an objection being raised by them (complainant party), the occurrence took place.

During the course of investigation, Ajit Singh @ Jagjit Singh as well as his co-accused Gurpal Singh and Jaswant Singh were arrested on 01.04.2017 whereas co-accused Kuldeep Singh and Amar Singh were arrested on 07.04.2017. Co-accused Nirbhai Singh was arrested on 12.04.2017. Amar Singh got recovered a 12 bore DBBL gun whereas co-accused Gurpal Singh got recovered an axe (Takua). Jaswant Singh and Nirbhai Singh got recovered their respective Dangs allegedly used in the offence.

On the basis of the supplementary statement of the complainant/injured Budh Singh recorded on 24.04.2017, Pardeep Singh @ Bittu, Harpreet Singh, Gurpreet Singh @ Gopi, Harjinder Singh (petitioner) son of Teja Singh and Hardev Singh were nominated as accused in the present case.

On the representation of Darshan Singh son of Milkha Singh, an inquiry was conducted and after due verification accused Gurjatinder Singh son of Harpal Singh, Gurpreet Singh @ Ladda son of Gurpal Singh, Raj Singh son of Tarlochan Singh, Sarabjit Singh son of Darshan Singh, Harchand Singh son of Hardeep Singh and Hardev Singh son of Balwant Singh were not found to be present at the spot and a recommendation was made to declare them innocent which was duly approved by the then SSP, Tarn Taran.

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After the completion of the investigation, the report under Section 173(2) Cr.P.C. was submitted against Ajit Singh alias Jagjit Singh, Jaswant Singh, Kuldeep Singh, Nirbhai Singh and Amar Singh.

During the course of further investigation, Gurlal Singh (father of accused Harjeet Singh) moved a representation before the SSP, Tarn Taran for conducting an inquiry and for verification of the facts. The same was marked to the SP (Investigation), Tarn Taran. It was found that accused Harjeet Singh was not present at the place of occurrence. A recommendation was made to declare him innocent and the said inquiry was approved by the then SSP, Tarn Taran.

Accused Sarwan Singh son of Baaj Singh, Harjit Singh, Pardeep Singh alias Bittu, Harjit Singh alias Harpreet Singh, Gurpreet Singh @ Gopi and Harjinder Singh (petitioner) were declared proclaimed offenders on 03.08.2017 by the Illaqa Magistrate, Patti.

Pardeep Singh alias Bittu was arrested on 29.12.2017 and Gurpreet Singh alias Gopi was arrested on 20.07.2018 and his supplementary challan was submitted against them.

Thereafter, Harjinder Singh (petitioner) came to be arrested on 06.08.2021.

3. The learned counsel for the petitioner contends that the name of the petitioner does not figure in the FIR. He has been named in the supplementary statement of the complainant got recorded on 24.04.2017 along with five other persons with the allegations that they were throwing brickbats towards the complainant party. Co-accused Kuldeep Singh @ Lada,

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Pardeep Singh @ Bittu, Gurpal Singh, Nirbhai Singh, Jaswant Singh, Gurpreet Singh and Amar Singh had been granted the concession of regular bail. As the petitioner was in custody since 06.08.2021 and only 07 out of the 34 prosecution witnesses had been examined so far, he was entitled to the similar relief.

4. On the other hand, the learned State counsel contends that the petitioner along with his co-accused were part of an unlawful assembly which committed the murder of two persons and injured others as well. Therefore, the nature of the allegations levelled against the petitioner did not entitle him to the grant of bail moreso as he had been absconding for 04 years. She, however, concedes that some of the similarly situated co-accused of the petitioner have been granted the concession of bail only 07 out of the 34 prosecution witnesses had been examined so far and the fact that the petitioner is a first-time offender.

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

6. Admittedly, the petitioner is not named in the FIR but his name finds mention in the supplementary statement of the complainant. The evidentiary value of the said statement shall be adjudicated upon during the course of trial. Some of the similarly situated co-accused of the petitioner have already been granted the concession of bail. The petitioner is stated to be a first-time offender, in custody since 06.08.2021 and only 07 of the 34 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In this situation, his further incarceration is not required.

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7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Harjinder Singh son of Teja Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case mentioned in this order.
9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

16.10.2023
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No