

276 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15680-2023
Date of Decision:03.08.2023

(i)
Mangal @ Mangal Singh ...Petitioner

Vs.

State of Punjab ...Respondent

(ii) CRM-M-23135-2023

Surat Singh ...Petitioner

Vs.

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr.Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate
Mr. Karandeep Singh Sidhu, and
Mr. Prabhdeep S. Bindra, Advocate
for the petitioner in CRM-M-15680-2023.

Mr. Nikhil Ghai, Advocate and
Mr. P.S Bindra, Advocate
for the petitioner in CRM-M-23135-2023.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

1. This order shall dispose of two petitions i.e CRM-M-15680-2023 titled as ***Mangal @ Mangal Singh Vs. State of Punjab*** and CRM-M-23135-2023 titled as ***Surat Singh Vs. State of Punjab***, which have been filed by the petitioners under Section 439 Cr.PC with a prayer to grant regular bail to them in case FIR No.64 dated 28.04.2022 under Sections 302/34 of IPC and 25/27/29/30/54/59 of Arms Act, registered at Police Station Mamdot, District Ferozepur (Annexure P-1).

2. As per the case of the prosecution, the complaint was got registered by Karnail Singh, son of Gurdeep Singh, who stated that he was running a shop of commission agent at Focal Point, Tibbi Khurd. On 27.04.2022, at about 11:00 PM, Mangal Singh Porter (*Palledaar*) along with Paramjit Singh son of Chiman Singh, had quarrelled and a Panchayat was convened at 10:00 AM at the shop of the complainant. The complainant was sitting with Kuljinder Singh and Paramjit Singh outside the shop in the shed and Kirpal Singh, who had brought his crop for sale at his shop was also sitting in the shed. At about 09:00AM, Gursharan Singh @ Gulshan, Surat Singh and Mangal Singh came there in a white colour Swift Dezire car. Mangal Singh exhorted Karnail Singh, to teach a lesson to the opposite side as they had quarrelled on the last evening. Karnail Singh came forward to make them understand. On this, Surat Singh exhorted Gursharan Singh to teach a lesson to Kirpal Singh first for coming forward. At this, Gursharan Singh took out his pistol and fired towards Kirpal Singh, which hit him on the left side of his chest. The complainant, his nephew and Paramjit Singh entered into the shop of the complainant and the accused fired in the air and threatened. The motive of the occurrence was that on 27.04.2022, the labourers on both the sides had fought with each other. It was further alleged that due to the said motive, the accused had fired at the complainant side and had killed Kirpal Singh. After arranging the vehicle, Kirpal Singh was shifted at the hospital. With these broad allegations, the FIR has been got registered by the complainant in the present case.

3. Learned counsel for the petitioners submitted that both the petitioners have been attributed the role that they had exhorted the co-accused

Gursharan Singh to fire the shot and no other overt act has been attributed to both of them. In fact, the complainant had concealed the true facts and the genesis of the occurrence. In reality, it was a case of version and cross-version. As per the learned counsel, at about 09:00 AM on 28.04.2022, a *Panchayat* was convened with regard to the dispute between the labourers of Surat Singh and labourers of Karnail Singh on the other side. Gurbhej Singh son of Kashmir Singh used abusive language against Surat Singh and Gursharan Singh son of Surat Singh resisted the said act. Kirpal Singh, who was on visiting terms with Karnail Singh, caught hold of Gursharan Singh and had snatched .32 pistol of Surat Singh from his son. Kirpal Singh caught hold of Gursharan Singh son of Surat Singh and they had a scuffle with each other. Due to said scuffle, the pistol went off accidentally and the fire shot had hit Gursharan Singh on his left hand and also it had hit Kirpal Singh. The pistol fell on the ground and Gursharan Singh ran away from the spot. When Gursharan Singh reached near the car, Parminder Singh, who was armed with 12 bore rifle and Harpal Singh, who was also armed with 12 bore rifle fired shots towards Gursharan Singh, which hit on the right foot of Gursharan Singh and the pellets also hit his car. Due to this, a cross version i.e DDR No. 36 under Sections 307/34 IPC and 25/27 Arms Act, was registered against the complainant party in the present case. Learned counsel further contends that as per the MLR Annexure P-2 pertaining to Gursharan Singh son of petitioner, he had suffered the following four injuries:-

1. *Entry wound lacerated punctured wound of 3 cm x 2 cm present on dorsum of first toe and second toe of right foot.*

Powder tatting present. Singeing present. Blackening present. Margins are inverted. Advised X-ray right foot and ortho opinion.

2. *Exit wound lacerated punctured wound of 6 cm x 4 cm present on palmar aspect of right foot. Margin are everted. Advised X-ray right foot. During first air wound wash, manual evacuation done for foreign body pieces collected and sealed. Advised X-ray right foot and ortho opinion.*

3. *Exit wound lacerated punctured wound of 3 cm x 3 cm present on dorsum aspect of left hand middle finger, margins inverted. Advised X-ray left hand hand and ortho opinion.*

4. *Entry wound lacerated punctured wound of 2 cm x 2 cm present on palmar aspect of left hand middle finger. Powder tatting present. Singeing present. Blackening present. Margins are inverted. Advised X-ray left hand and ortho opinion.*

4. Learned counsel further contends that in the present case, Kirpal Singh, deceased had suffered only one fire arm injury, which is attributed to Gursharan Singh, non-applicant/co-accused. Learned counsel further contend that in the present case, the defence version of the accused competes in probability with the prosecution version and the question of aggressor is yet to be decided by the learned Trial Court. Even no recovery was effected from the petitioners and since only 15 witnesses had been examined out of 36 witnesses, the conclusion of the trial may take quite a long time.

5. On the other hand learned State counsel has vehemently opposed the grant of concession of bail to the petitioners on the ground that both the

petitioners had accompanied Gursharan Singh, main accused, who is attributed fire shot injury and Kirpal Singh son of Piara Singh succumbed to the said fire arm injury. Learned State counsel further submitted that in view of the gravity of the matter, the petitioners are not entitled for concession of bail by this Court.

6. I have heard learned counsel for the parties and with their able assistance; I have perused the record.

7. As per the custody certificate filed by learned State counsel, Mangal Singh, petitioner has undergone more than 11 months of custody, whereas Surat Singh has undergone about 10 months of custody. Out of 36 witnesses, 15 witnesses have already been examined by the prosecution and it is apparent that the conclusion of the trial may take considerable time. Consequently, it is not in the interest of justice that the accused should be confined in jail for an indefinite period.

8. In view of the above discussions, both the petitions are allowed. Both the petitioners are ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them to disclose such facts to the Court or to any other authority.

(ii) The petitioners shall remain present before the learned Trial Court on the date fixed for the hearing of the case. In case, they want to remain

absent, they shall seek prior permission of the Trial Court.

(iii) They shall surrender their passport, if any (if not already surrendered), and in case they are not a holder of the same, they shall swear to an affidavit. If they already surrendered the passport, that fact should also be supported by an affidavit.

9. Both the petitions are disposed off, accordingly. All other pending applications, if any, are also disposed off accordingly.

03.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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

