

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CRA-D-581-2023 (O & M)

Reserved on: 30.11.2023

Pronounced on: 05.12.2023

HARBHINDER SINGH @ PINDER @ DHILLON AND ANR.

.....Petitioners

Versus

STATE THROUGH NIA

....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
 HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. P.S.Hundal, Senior Advocate with
 Mr. Gursahib Singh Hundal, Advocate
 for the appellants.

Mr. S.S.Sandhu, Advocate
for the respondent-NIA.

SURESHWAR THAKUR, J.

1. The instant appeal as constituted under the provisions of Section 21(4) of the National Investigation Agency Act, 2008, is directed against the impugned order drawn on 20.04.2023 (Annexure A-1), whereby the learned Special Judge, NIA, Punjab, SAS Nagar proceeded to decline the claimed facility of regular bail to the present appellant(s).

2. The learned counsel appearing for the appellant(s), has vigorously argued before this Court, that despite no incriminatory material becoming marshalled by the investigating officer, in respect of their culpability in the appeal-FIR, yet the learned Special Judge proceeding to decline the claimed facility of regular bail to the present appellant(s).

3. In the above regard, he submits that neither any incriminatory role in the disclosure statement, was made against the present appellants concerned, by co-accused Inderjeet Singh, nor any efficacious recovery became effected at their respective instances, thus to the investigating officer concerned.

4. Therefore, he submits that the incriminatory role, as assigned to the present bail appellants, thus merely on the basis of disclosure statement (supra) as made by co-accused concerned, is neither sufficient nor ample, for thereby concluding, that the present appellants were required to be not granted bail, by the learned Special Judge concerned.

5. Consequently, he contends that Annexure A-1, is required to be set aside and thereby the present applicants be enlarged on regular bail, on such terms and conditions, as deemed fit to be imposed, upon them, by this Court.

6. Before proceeding to adjudicate upon the above made contention(s) before this Court by the learned counsel for the appellant(s), it is deemed necessary to unfold, that in the appeal FIR, not only offence(s) under the UAPA Act, have been embodied but also offences punishable under Section 302 and 34 IPC, besides offences punishable under Sections 25 and 27 of the Arms Act, are thus alleged to be committed by the present bail applicants-appellants, thus with theirs holding a culpable conjoint *mens rea* with the other co-accused.

7. The deceased, is one Comrade Balwinder Singh Sandhu, who was running an educational institution. It is alleged that the present bail applicants-appellants, as well as, the other co-accused were

the deceased rather being pro actively engaged in ensuring the curbing/restrainings the propagation of the Khalistan movement by the accused. As a consequence, or to wreak vendetta, upon, the deceased, thus the accused allegedly hatched a conspiracy to murder him.

8. Now, adverting to the above made submissions made before this Court by the learned counsel for the appellants, and also for making an adjudication with respect to the validity of the said submissions, it is deemed necessary to allude, to the signed synopsis placed on record, by the investigating officer concerned.

9. A reading of the signed synopsis, is most imperative, as, thereupon, it would become unveiled, whether the present bail applicants, did hold any culpable *mens rea* alongwith the principal accused concerned, namely one Inderjeet Singh, in the latter proceeding to commit the murder of deceased comrade Balwinder Singh Sandhu.

10. The incriminatory role, as assigned in the signed synopsis, vis-à-vis the present bail applicants reveals, that they had in the hereafter extracted manner, made themselves culpable alongwith, the principal accused concerned, inasmuch as, theirs alongwith principal accused, thus holding a joint *mens rea* of conspiring alongwith him, to commit the murder of deceased Comrade Balwinder Singh Sandhu.

i) The bail applicants are, as revealed by a deep scrutiny, and, analysis of seized mobile phones, CDRs of accused persons, thus to on dates immediately proximate, to the ill fated occurrence taking place at the crime site, hence make a reconnaissance

present bail applicants, as they were radicalized into Khalistan ideology, besides they became handpicked to do such reconnaissance(s) of the crime site, as one of them i.e. Navpreet Singh @ Nav was a student of the educational institution operated by the deceased comrade Balwinder Singh Sandhu.

ii) The document D-217, discloses the factum of the present bail-applicants, disclosing that they did reconnaissance of the crime site, alongwith the principal accused, besides unfolds that a disclosure was made by them to the investigating officer concerned, about the site, where Navpreet proceeded to burn the clothes of principal accused Inderjeet Singh, which he was wearing at the time of committing the murder of the deceased (supra).

iii) The said memo also discloses the place where Harbhinder Singh dropped the principal accused Inderjeet Singh, at a specific location on 16.10.2020, for ensuring that thereafter, a meeting is held alongwith the other members of the crime syndicate, to thus achieve their ill purpose of committing the murder of deceased (Supra).

iv) The memo (supra) also discloses the trite factum, inasmuch as, from the house of Harbhinder Singh, the hoodie, which the principal accused Inderjeet Singh, was wearing at the time of committing the crime event, thus being recovered therefrom, at his instance, to the investigating officer concerned.

v) The document bearing No. D-163, reveals the factum of issuance of a certification, as required to be so issued, under Section 65 B of the Indian Evidence Act, by the service provider concerned, qua the relevant mobile phone number, respectively belonging to principal accused Inderjeet Singh, and, to the other accused concerned.

vi) Consequently, the said certification, prima facie, makes the seizure of the mobile of principal accused, rather to be a validly made seizure, besides, makes the CDRs as prepared in respect thereof, to be also, prima facie, thus enjoying evidentiary vigor.

vii) That documents D-164 and D-246 which are likewise a certification, thus made in terms of Section 65(b) of the Indian Evidence Act, in respect of the mobile phones, thus respectively belonging to the accused Navpreet Singh and Harbhinder Singh, but also make this Court, to prima facie, infer that thereby the apposite CDRs, do relate to calls being exchanged inter-se the present bail applicants, thus with the principal accused Inderjeet Singh, rather from their respectively owned mobile phones.

11. The effect of existence of the above incriminatory material, as becomes unfolded from the above recitals, as, made in the signed synopsis placed, before this Court by the investigating officer concerned, is that, thereby the prosecution has been able to bring forth prima facie, tangible material, thus making forthright displays, that prima facie, sufficient and ample incriminatory material, has been mobilized by the investigating officer concerned, to thus make this Court to conclude, that the present bail applicants-appellants, did hold an inculpable joint *mens rea* but alongwith the principal accused concerned, thus to commit murder of deceased Comrade Balwinder Singh Sandhu.

12. Moreover, this Court is also constrained to conclude, that the above referred material, does also require, the making of a further inference, that the present bail applicants-appellants alongwith the other

that to ensure its successful propagation, thus they had eliminated Comrade Balwinder Singh Sandhu.

13. In consequence, this Court finds no merit in the appeal, and, the same is accordingly dismissed.

14. The impugned order (Annexure A-1) is maintained and affirmed.

15. The afore observations are meant only for the disposal of the present appeal, and, shall not affect the merits of the trial arising from the FIR (supra).

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

05.12.2023
kavneet singh

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