

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

Criminal Misc. No.M-30978 of 2021 (O&M)

Date of Decision: March 03, 2023

Joginder Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

--

Present: - Dr. Anmol Rattan Singh Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for petitioner.

Mr. Dhruv Dayal, Additional A.G. Punjab.

Mr. Vipin Mahajan, Advocate for complainant.

-

HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.83 dated 25.05.2020 under Sections 302, 307, 506, 148, 149 IPC and under Sections 25, 27 of Arms Act, Police Station Sadar Batala, Police District Batala.

The FIR was registered on the statement of one Kuldeep Singh who stated that on 24.05.2020 at about 6.30 pm, his brother Kulwinder Singh, nephew Arshpreet Singh, Surinder Singh, Manjodh Singh and Lovedeep Singh were standing on the Phirni of village and were conversing with each other. In the meantime, Gurdip Singh Vakil, his father Joginder Singh (petitioner), mother Kulwant Kaur, wife of Kuljit Singh (Fauji) and wife of Gurdip Singh (the accused party) who were armed with *dang* and

sotas came there and started encroaching on the Government pond. Complainant party went to them and asked Gurdip Singh Vakil and his family members why they were taking forcible possession of the pond. The accused party did not pay any heed to this. A small confrontation took place with Gurdip Singh. At 7.15 pm, Gurdip Singh abused the complainant party during verbal duel and also took out his revolver from the holster. Gurdip Singh, his mother Kulwant Kaur, his sister-in-law and wife gave a *lalkara* to teach a lesson to the complainant party for stopping them from taking possession of the pond. Then, Gurdip Singh who had revolver in his hand fired from it. The bullet hit Manjodh Singh on the backside of his head. Manjodh Singh fell down. Thereafter, Gurdip Singh fired second bullet at Lovedeep Singh which hit on his right biceps near shoulder. The third shot fired by Gurdip Singh hit Arshpreet Singh on his right side flank. In the meantime, Joginder Singh (petitioner) snatched the revolver from Gurdip Singh and fired at Manjodh Singh who was lying on the ground which hit on his left flank. On raising noise, the assailants ran away with their weapons alongwith JCB machine from the spot. Injured Manjodh Singh, Lovdeep Singh and Arshpreet Singh were taken to Civil Hospital, Batala where the doctor referred them to Amritsar. On reaching Amandeep Hospital Amritsar, Manjodh Singh was declared dead by the doctors.

Reply by way of short affidavit of Shri Sarvanjit Singh, PPS, Deputy Superintendent of Police, Sub Division Fatehgarh Churian, Police District Batala, District Gurdaspur has been filed. It is stated that allegations of murder are against main accused Gurdip Singh and petitioner. It is further stated that the revolver used in the occurrence belongs to Kuljit Singh who is

brother of accused Gurdip Singh. It came during investigation that accused Kuljit Singh, who is posted at 56 APO Army, Coy HQ, PL, Chd. Unit 13, Mahar Battalion, Rorkie Cantonment, Uttarakhand had intentionally kept his revolver and rifle in the cupboard to settle scores with opposite party.

Dr. Anmol Rattan Singh Sidhu, Ld. Senior counsel for the petitioner has argued that the petitioner, who is aged about 72 years, is dragged in the alleged incident by the complainant with the sole motive to involve all members of the family. The version of the prosecution is that Gurdip Singh (son of petitioner) who had revolver in his hand fired three shots; one, each hitting Manjodh Singh, Lovedeep Singh and Arshpreet Singh. The allegation against the petitioner is that thereafter, the petitioner snatched the revolver from his son and fired at Manjodh Singh, who was lying on the ground, which hit on his left side of flank. He argued that it is highly improbable that the petitioner would snatch the revolver from his son Gurdeep Singh after the former had fired three shots as alleged. It is stated that the petitioner is of frail health, suffering from pain in the abdomen, has a stone in the gall bladder. He was treated at the Jail Hospital and Civil Hospital, Kapurthala. His treatment record has been annexed.

It is further stated that there are about 30 witnesses in the case. After recording the statement of one PW, application under Section 319 Cr. P.C. was moved which has been dismissed. Now the case is fixed for prosecution evidence. The conclusion of the trial may take long time. The petitioner is behind bars since 25.05.2020 i.e. for the last about two years and Nine months.

Mr. Dhruv Dayal, Ld. Additional Advocate General for the State and Mr. Mahajan for the complainant while opposing the petition for bail submitted that the petitioner is one of the main accused in the case along with his son. The delay in the trial is not attributable to the prosecution and the petitioner can get no benefit on that account. Mr. Mahajan stated that an application for discharge had been filed by Kuljeet Singh (brother of Gurdeep Singh) which remained pending for over one year. They state that the injured eye witnesses have got their statements recorded implicating the petitioner.

Having heard Ld. counsel for the parties and considering the facts and circumstances, particularly, the age of the petitioner, his custody period as also the number of witnesses to be examined, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

Misc. Application/s, if any, disposed of accordingly.

March 03, 2023
gian

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No