

(224B)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27627-2023

Date of Decision: 03.08.2023

BALJINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. D.S. Gandhi, Advocate
for the petitioner.

Mr. Gurlal Singh Dhillon, Asst. A.G., Punjab.

Mr. Vaibhav Narang, 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.194 dated 11.06.2022 registered under Sections 302, 307, 120-B, 148, 149 IPC and Sections 25/27/27-A/29/29-A/54/59 of Arms Act at Police Station B Division, Amritsar.

2. The present FIR came to be registered at the instance of Smt. Rajbir Kaur wife of Late Gurpratap Singh @ Raja. As per the allegations, Gurpratap Singh was the owner of a shop at the 100 ft. road main bazaar which had been given to one Gurnam Singh on rent. On 11.06.2022 at about 04.00 PM while Gurnam Singh was outside the shop fixing grills, then on the spot Charanjit Singh Babba along with his brother Happy, Dharminder Singh @ Bholu, Nona Nihang and one more Nihang along with certain unknown persons came there and stopped Gurnam Singh from fixing the grill. Due to

this, a dispute started between the parties because of which she and her husband came to the spot. Her husband asked Charanjit Singh Babba to restrain himself from fighting with the tenant Gurnam Singh. On this, Charanjit Singh Babba raised a Lalkara. Then his companion Dharambir Singh alias Bholu also raised a Lalkara. Meanwhile, Nona Nihang attacked her husband on the head with a dattar. To save her husband, his friend Rishi Chaudhary came forward. Then one unknown Nihang attacked the hand of Rishi Chaudhary with a wooden Mungla. Happy attacked with a sword on Jaspreet Singh @ Prince hitting his left arm and shoulder. At the same time, Charanjit Singh @ Babba's brother Rimpi came on the spot who handed over a pistol to Charanjit Singh @ Babba and instigated him by saying that he should finish the fight one way or the other otherwise the complainant party would claim ownership. On saying this, Charanjit Singh @ Baba with an intention to kill fired a shot directly at her husband Gurpratap Singh. One bullet hit the left side of his belly and one bullet struck his left side of the eye on the forehead of her husband who fell down. Her husband was taken in a serious condition to the hospital with the help of Rishi, Prince and other persons, where he was declared dead. Legal action was sought.

3. The learned counsel for the petitioner contends that he has not been named in the FIR. In fact, the petitioner's name figures in the supplementary statement of the complainant given later. As per the CCTV footage collected by the prosecution, the petitioner is said to have been standing at the place of occurrence and no overt act has been attributed to him. As the petitioner was a first-time offender, in custody since 03.01.2023

and none of the 31 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that all the accused collectively assaulted the deceased. The petitioner could not claim innocence merely because he was not named in the FIR, as he was named soon thereafter in a supplementary statement of the complainant. He is also visible in the CCTV footage being aggressive. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 03.01.2023, none of the 31 prosecution witnesses had been examined so far and that he was a first-time offender.

5. The learned counsel for the complainant vehemently contends that all the accused assaulted the deceased brutally. The petitioner was present at the place of occurrence along with the accused and acted aggressively. The nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the concession of bail. He, however, admits that the petitioner is not named in the FIR but in the supplementary statement of the complainant.

6. I have heard the learned counsel for the parties and examined the record.

7. The veracity of the prosecution case against the petitioner and his co-accused shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is not named in the FIR. No firearm has been recovered from his possession. He is stated to be a first-time offender, in custody since 03.01.2023 and none of the 31 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to

be concluded anytime soon. In such a situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Baljinder Singh son of Pal 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.

9. 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.

10. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

03.08.2023

JITESH

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