

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55591-2022
Reserved on: 23.02.2023
Pronounced on: 11.04.2023

Bakshish Singh @ Babbu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr.Navraj Singh, Advocate for the petitioner(s).

Mr. Virat Rana, AAG, Punjab

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
47	11.05.2020	Rahon, District S.B.S. Nagar	279, 304-A IPC (later on offences replaced with Sections 302, 396, 201 IPC)

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.

2. Petitioner’s contention is that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. He seeks bail on the following grounds:-

- 1) that the petitioner is in custody since 23.05.2020;
- 2) that it was a blind murder as such in the case of circumstantial evidence, the petitioner is entitled for bail;
- 3) that no recovery was effected from him and further that the father of the deceased did not support the prosecution’s case and
- 4) that the petitioner claims bail on the ground of parity with co-accused Harash.

2(a) This Court has opined on the grounds for bail made by counsel for the petitioner to the extent as mentioned hereinunder:-

- 1A) that in a case under section 302, custody of two years is not a ground to be released on bail. Thus, on this ground the petitioner fails to make out a case for bail.
- 2A) This is also not a ground for bail provided that there is some evidence. It

is not the petitioner's case that there is not even an iota of evidence against him. As such he is not entitled to bail also.

3A) These are appreciation of evidence which has to be conducted by the trial Court and this Court is not sitting in an appeal. However, considering the entirety of facts and circumstances of the case, the petitioner is not entitled to bail even on this ground.

4A) that the co-accused Harsh who was granted bail was juvenile and the petitioner is an adult. Thus, he is not entitled to bail on this ground as well.

3. State opposes the bail. State counsel has also drawn attention of this Court that all witnesses stand examined and now the case is at the stage of 313 Cr.P.C.

4. Further, it is apposite to refer to the reply affidavit of the concerned DySP filed in connected petitioner i.e. CRM-M-36627-2021 , which reads as follows:

(2). That it is respectfully submitted that the investigation of the case was carried out by Inspector Dalbir Singh, the then Incharge, CIA Staff SBS Nagar, and since the said officer has already been transferred from the district SBS Nagar, as such the present affidavit is being submitted by the deponent being Station House Officer of police station Rahon.

(3) That it is respectfully submitted that on 10.05 2020, ASI Jaswinder Pal of police station Rahon, along with police party was on patrolling duty and was present at T-Point Jadla Rahon, where complainant-Balwant Singh son of Dalip Singh resident of Chowk Pattuan, Mohalla Rajputan, Rahon, District SBS Nagar, met him and got recorded his statement alleging therein that he was having one son and daughter and his son Sunpreet Singh aged about 35 years, was doing agriculture with him it was further alleged by the complainant-Balwant Singh that on 11.05.2020 at about 06:30 AM, he along with his son Sunpreet Singh had gone to their fields for doing work and he returned to his house at about 06.30 PM and his son Sunpreet Singh was doing work in the fields in the area of village Seikhan Majara, and he did not return till 10:00 PM and complainant-Balwant Singh made a phone call to his son Sunpreet Singh, who told the complainant-Balwant Singh that he had reached near Garni turn, but when Sunpreet Singh did not reach the house then complainant-Balwant Singh went towards his fields in the area of village Sheikhan Majara to see his son Sunpreet Singh and when he reached about 100 meter towards Rahon from Garhi turn, then he found dead body of his son Sunpreet Singh and his body was having injuries upon his chest and face etc and the complainant-Balwant Singh alleged that his seems to be hit by some vehicle loaded with iron bars and pattis etc and complainant requested to take action against the unknown driver of unknown vehicle, which caused death of his son Sunpreet Singh It is further submitted that on the basis of the statement of the complainant-Balwant Singh FIR No.47 dated 11.05.2020, under Section 279, 301-A of IPC was lodged at police station Rahon, District SBS Nagar.

(4). That it is respectfully submitted that the damaged motorcycle bearing no UP-16-E-3249, mobile phone make Oppo, a fabric bag containing lunchbox and thermos bottle were found near the dead body of Sunpreet Singh It is further submitted that the photography of the place of occurrence was got conducted by the Investigating Officer and inquest proceeding of the deceased Sunpreet Singh was carried out and on 11.05.2020 the autopsy of the deceased Sunpreet Singh was got conducted from the board of doctors of civil hospital Balachaur, and as per Post-Mortem Report (PMR) of the deceased-Sunpreet

Singh, following injuries were found on the dead body-

1. *Incised wound of 17 cm x 3 cm margin regular, well defined, clean cut present over left side of face extending from under the left corner of lip above chin running horizontally upto below left ear pinna Underlying tissue, muscle, vessels, gland cut Clotted blood present.*
2. *Stab wound of 6 cm x 2 cm x deep upto underlying viscera present on anterior lateral side of chest, 5 cm below and lateral to left nipple. On dissection underlying tissue, muscle, vessels, rib cut. On further dissection left pleura, left lung pericardium, left atrium, left ventricle punctured. Major vessel punctured. Clotted blood present in the cavity Margins regular, well defined, clean cut, spindle shaped obliquely present.*
3. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera present below 2 cm injury no.2. On dissection underlying tissue, muscle, vessels, rib cut On further dissection left pleura, left lung, pericardium, left atrium, left ventricle punctured. Clotted blood present in the cavity. Margins regular, well defined, clean cut, spindle shaped obliquely present*
4. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera obliquely below and lateral side of injury no.3. On dissection underlying tissue, muscle, vessel punctured. On further dissection left lung punctured Clotted blood present in the cavity. Margins regular, well defined, clean cut, spindle shaped obliquely present.*
5. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera present in mid auxiliary line. On dissection underlying tissue, muscle, vessels cut On further dissection left pleura and left lung punctured Clotted blood present in the cavity. Margins regular, well defined, clean cut, spindle shaped obliquely present*
6. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera on lower part of left side of chest 4.5 cm lateral to midline On dissection underlying tissue, muscle, vessels cut On further dissection underlying diaphragm punctured Clotted blood present in the cavity Margins regular, well defined clean cut, spindle shaped obliquely present.*
7. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera present below and medially to injury no 6 On dissection underlying tissue, muscle, peritoneum cut. On further dissection underlying diaphragm, stomach from fundus punctured. Transverse colon punctured. Margins regular, well defined, clean cut, spindle shaped obliquely present*
8. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera present on right side of chest on lower part 3 cm lateral to midline. On dissection underlying tissue, muscle, rib, vessels cut. On further dissection underlying right lung, diaphragm punctured. Clotted blood present in the cavity. Margins regular, well defined, clean cut, spindle shaped obliquely present*
9. *Stab wound of 4 cm x 2 cm x deep upto underlying viscera present below and medial to injury no.8 On dissection underlying tissue, muscle, vessels cut. On further dissection underlying part of liver, diaphragm punctured Clotted blood present in the cavity. Margins regular, well defined, clean cut spindle shaped obliquely present*

10. Stab wound of 4 cm x 2 cm x deep upto underlying viscera present below and medial to injury no.9. On dissection underlying tissue, muscle, vessels cut. On further dissection underlying part of liver, transverse colon punctured. Clotted blood present in the cavity. Margins regular, well defined clean cut, spindle shaped obliquely present.
11. Stab wound of 4.5 cm x 0.5 cm deep upto underlying ser just above umbilicus. On dissection underlying tissue, muscle vessels, peritoneum cut. On further dissection underlying part of small intestine punctured. Clotted blood present in the cavity. Margins regular, well defined, clean cut, spindle shaped obliquely present.
12. Stab wound of 3 cm x 2 cm x bony deep present on left thigh on lateral side on upper part. On dissection underlying tissue muscle, vessels cut. Clotted blood present in the cavity Margins regular, well defined, clean cut horizontally present
13. Stab wound of 3 cm x 2 cm x bony deep present below injury no.12. On dissection underlying tissue, muscle, vessels cut. Clotted blood present in the cavity. Margins regular, well defined, clean cut obliquely present
14. A stab wound of 4 cm x 2 cm x deep upto underlying viscera present on left side of middle of upper back. On dissection underlying tissue, muscle, vessels cut. On further dissection underlying lung, pleura punctured. Clotted blood present Margins regular, well defined, clean cut, spindle shaped obliquely present.

It is further submitted that in the opinion of the board of doctors, the cause of death in this case was due to hemorrhagic shock which was caused by the injuries as described in the post mortem report. All the injuries were declared to be ante- mortem in nature and were sufficient to cause death in ordinary course of life. The board of doctors further declared that the weapons used to cause the injuries were sharp and probable time between injury and death was within few minutes and between death and post-mortem examination was between 12 to 20 hours.

5. *That it is respectfully submitted that from the post-mortem report of the deceased Sunpreet Singh, it was found that it was not a case of accident, as such for thorough investigation of the case, the same was handed over to Incharge, CIA Staff, SBS Nagar, by Senior Superintendent of Police, SBS Nagar, vide its order dated 15.05.2020. It is further submitted that on 17.05.2020 Sections 279, 304-A, of IPC were deleted from the case and Sections 302, 34 of IPC was added in the case.*

6. *That it is respectfully submitted that thorough investigation of the case was carried out and mobile phone location dump of the area where dead body of the deceased Sunpreet Singh was found was taken, various other sources were made and on 22.05.2020, wife of deceased Sunpreet Singh namely Balwinder Kaur got recorded her statement under Section 161 Cr PC that on 10.05.2020, her husband Sunpreet Singh had taken Rs 15,000/- with him for repair of his tractor but since on that day it was Sunday and shops of repair were closed, as such he could not get his tractor repaired and the said amount and documents of his identity were with her husband in a black coloured purse and that her husband was killed by some robbers and they had also robbed Rs 15,000/- from him and she requested to trace the accused who killed her husband. It is further submitted that during investigation on 22.05.2020, it was revealed that deceased Sunpreet Singh*

was killed by Jagdeep Singh Babbu Bajwa, Harash, petitioner-Janit Hans, Harjinder Bhutta, Bakhsish Singh Babbu and Kamaljit and they all remained together before and after the occurrence. It is further submitted that reliable evidence had come on record against the aforementioned accused including the petitioner Janit Hans, as such the all were nominated in the present case as accused. It is further submitted that on 23.05.2020, all the aforementioned accused were arrested from the salon of accused Harjinder Bhutta..

7. That it is respectfully submitted that from the interrogation of the accused it was revealed that on 10.05.2020, all the accused namely Jagdeep Singh Babbu Bajwa, Harash, petitioner-Janit Hans, Harjinder Bhutta, Bakhsish Singh Babbu and Kamaljit were having liquor at Mitti Wala Ground on Machhiwara Road, Rahon, they all conspired to commit robbery / dacoity. It was further revealed during the investigation that all the accused were on two motorcycles bearing no PB-32-Z-8837 and PB-32 AA-2530 and at about 10.00 PM they reached near Garhi turn and they found deceased Sunpreet Singh coming from Machhiwara road side and accused Bakhsish Singh Babbu at the asking of accused Jagdeep Singh Babbu Bajwa stopped the deceased by parking his motorcycle in front of him and they all besieged the deceased and attacked upon him. It is further transpired during the investigation that Harjinder Bhutta, Harash and petitioner-Janit Hans caught the deceased from his arms and Jagdeep Singh Babbu Bajwa and Bakhsish Singh Babbu gave dagger blows on his chest, stomach and other vital parts of his body and Jagdeep Singh Babbu Bajwa also got an injury on his right thumb and thereafter they took out an amount Rs.15,000/- and his purse containing identity card, Aadhar Card etc. from the pocket of the deceased and they again went towards Mitti Wala Ground and divided Rs.15,000/- robbed by them from the deceased amongst themselves @ Rs.2500/- each. It is further transpired during the investigation that the clothes of accused Jagdeep Singh & Babbu, Bakhsish Singh Babbu and Harash were smeared with blood as such they changed their clothes from their houses and burnt the blood stained clothes near Mitti Wala Ground and the purse of the deceased containing Rs.150/- cash and documents of the deceased was kept by accused Bakhsish Singh Babbu It is further submitted that the daggers used by the accused to kill the deceased Sunpreet Singh was concealed by accused Jagdeep Singh Babbu Bajwa and Bakhsish Singh Babbu near the Mitti Wala Ground It is further submitted that during investigation during investigation Section 397 of the IPC was added in the case.

8. That it is respectfully submitted that the motorcycles bearing No PB-32-Z-8837 and PB-32-AA-2530 used by the accused by the accused were recovered and were taken into police possession. It is further submitted that during investigation of the case, on 23.05.2020 accused Jagdeep Singh Babbu Bajwa and Bakhsish Singh Babbu got recovered two daggers along with its covers and the same were taken into police possession by the investigating officer. It is further submitted that on 25.05.2020 petitioner-Janit Hans, Harjinder Bhutta and Kamaljit also got recovered currency notes of Rs.500/- 1300/- and Rs.1000/- respectively, remained with them out of the total amount of Rs 2500/- received by them after robbing deceased It is further submitted that on 25.05.2020, the accused Jagdeep Singh Babbu Bajwa and Bakhsish Singh & Babbu also got recovered ashes of their blood stained clothes and torn piece of Aadhar Card of the deceased Sunpreet Singh. It is further submitted that on 26.05.2020 petitioner Janit Hans got recovered Oppo A-5 without mobile connection as the sim card in the phone at the time of occurrence was broken by the petitioner-Janit Hans after the occurrence, in order to conceal his identity

9. *That it is respectfully submitted that call details, ownership and tower locations of mobile phone numbers 82619-34466 and 62390-56802 used by petitioner-Janit Hans were obtained and the same were found to be registered in the name of Raj Kumar son of Sohan Lal (father of the petitioner). The call details ownership and tower locations of mobile phone number 75278-73375 used by accused Harjinder Bhutta were obtained and the same was found to be registered in the name of Sandeep Kumar son of Joginder Pal (Owner of the shop of Harjinder Bhutta) The call details, ownership and tower locations of mobile phone number 97796-33238 used by accused Kamaljit were obtained and the same was found to be registered in the name of Vasudev son of Ram Murti (brother of Kamaljit). The call details, ownership and tower locations of mobile phone number 75280-22123 used by accused Harash were obtained and the same was found to be registered in the name of Surinder Kumar son of Darshan Lal (father of Harash) It is further submitted that the tower locations of these mobile numbers was at the relevant time was found in the area of place of occurrence.*

10. *That it is respectfully submitted that the daggers recovered from accused Jagdeep Singh Babbu Bajwa and Bakhish Singh Babbu, were shown to the board of doctors and their opinion regarding injuries on the person of deceased with caused with said daggers was obtained It is further submitted that after thorough investigation of the case, final report of the investigation under Section 173(2) of Cr.PC was presented against the petitioner Janit Hans and his co-accused under Section 302, 396, 201 of IPC before the court of competent jurisdiction on 11.08 2020 and charges against petitioner and his co-accused have already been framed on 19.03 2021 and U trial of the case is now pending before the Ld. Additional Sessions Judge, SBS Nagar, for 24.11 2020, for the evidence of the prosecution*

11. *That it is respectfully submitted that during inquiry carried out by the Ld. Trial Court, Harash (co-accused of the petitioner) was declared as Juvenile and a separate inquiry report against the Juvenile Harash was presented before the Ld. Juvenile Justice Board, SBS Nagar It is further submitted that the trial of the case is at initial stage and the material witnesses of the case are yet to be examined and there is an apprehension at the petitioner would try to influence the material witnesses of the case and the release of the petitioner-Janit Hans at this stage would be fatal to the case of the prosecution, as such the present petition is liable to be dismissed.*

REASONING:

5. A prima facie scrutiny of the aforesaid reply, prima facie points towards the petitioner's involvement and does not make out a case for bail. Given the right stage of trial, any opinion by this Court might prejudice the prosecution's case. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

6. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in terms mentioned above. However, considering the petitioner's custody, the ends of justice will meet by expediting the trial. This court requests the concerned trial court to take up this trial on priority and endeavor to conclude it by Sep 30, 2023. The expediting of the trial is subject to the condition that the petitioner shall

not seek any adjournment, and if he does so, this order expediting the trial shall stand recalled automatically under section 362, read with 482 CrPC, without any further reference to this court. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

11.04.2023
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Whether speaking/reasoned:	Yes
Whether reportable:	No.