

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

CRM-M-60842-2022

Date of Decision:-09.01.2023

Upkar Singh.

.....**Petitioner.**

Versus

State of Punjab.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Kapil Khanna, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.30 dated 07.05.2020 under Sections 447, 506, 201 IPC registered at Police Station Sadar Nawanshahr, District Shaheed Bhagat Singh Nagar.

The brief facts of the case are that statement of Kulwinder Kaur wife of Sh. Mohal Lal was recorded to the effect that she was a housewife. Her husband Mohan Lal had purchased land from Tarsem Singh son of Chuhar Singh and had taken possession. Pursuant to the death of her husband mutation of the land was entered in her name on 11.09.2017 and she cultivated the same herself. On 6/7.5.2020 she received information that some tractors were moving around in her fields and someone was ploughing the land. She along with her brother-in-law Avtar Singh reached

the spot and saw that Upkar Singh @ Baghi (petitioner) son of Sewa Singh on his Swaraj Tractor along with Sarabjit Singh @ Sabi on a Mahindra Tractor and Sukhwinder Singh @ Kala were ploughing the land and Raghbir Singh @ Geera and Avtar Singh were standing armed with *dandas* on the boundary of her fields. On seeing her, Raghbir raised a *lalkara*. On this they (complainant party) fled away from the spot. The intention of the accused was to grab her land.

The Counsel for the petitioner contends that the petitioner was attending the trial regularly and was appearing on every date. However, on 5.5.2022 he left the country and informed his counsel to move an application for exemption. However, the same was not done. He was therefore, declared a proclaimed offender on 31.08.2022 pursuant to which he surrendered in court on 18.11.2022 after which he has been in custody. He contends that the investigation is complete and since none of the 19 prosecution witnesses have been examined so far, his further incarceration is not required as the Trial was not likely to be concluded soon.

The Counsel for the State on the other hand contends that the conduct of the petitioner in absconding and being declared a proclaimed offender does not entitle him to the grant of bail. He however, admits the fact that the petitioner surrendered before the Trial Court on 18.11.2022 after which he has been in custody as also the fact that none of the 19 prosecution witnesses have been examined so far.

I have heard learned Counsel for the parties.

Admittedly the petitioner is in custody since 18.11.2022. None of the 19 prosecution witnesses have been examined so far and therefore, the Trial of the case is not likely to be concluded anytime soon. As such his

further incarceration is not required.

Keeping in view the aforementioned facts but without commenting on the merits of the case, the present petition is allowed and the petitioner **Upkar Singh** son of Sewa Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

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.

The petitioner shall make no attempt to contact/threat/intimidate the witnesses to the occurrence either directly or through a third party and if any such attempt is made, the State is at liberty to seek cancellation of bail granted by this order.

In addition, the petitioner (or anyone on his behalf) shall prepare 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.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 09, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>