

CRM-M-18018-2021

CRM-M-5755-2023 (O&M)

CRM-M-26376-2023

2024.PHHC.066138

2024.PHHC.066137

2024.PHHC.066138

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

(i) CRM-M-18018-2021

Gurpreet @ KakaPetitioner

Vs.

State of PunjabRespondent

(ii) CRM-M-5755-2023 (O&M)

Davinder SainiPetitioner

Vs.

State of PunjabRespondent

(iii) CRM-M-26376-2023

Piara SinghPetitioner

Vs.

State of Punjab and othersRespondents

Reserved On: 09.05.2024
Pronounced On: 13.05.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: Mr. Amit Dhawan, Advocate for the petitioner
in CRM-M-18018-2021.

Mr. J.S. Bains, Advocate for the petitioner
in CRM-M-5755-2023 (O&M).

Mr. R.K. Arya, Advocate for the petitioner
in CRM-M-26376-2023.

Mr. Amandeep Singh, DAG, Punjab.

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DEEPAK GUPTA, J.

This order shall dispose of 03 petitions titled above, as all of them pertain to the same FIR No.188 dated 08.11.2018, under Sections 302, 307, 323, 148 and 149 read with Section 25 of the Arms Act, registered at Police Station Dinanagar, District Gurdaspur.

2. In CRM-M-18018-2021; and CRM-M-5755-2023, petitioners Gurpreet @ Kaka and Davinder Saini, pray for their release on regular bail in the aforesaid FIR; whereas CRM-M-26376-2023 has been filed by the Piara Singh, the complainant of the case for issuing appropriate directions to the Trial Court to conclude the trial expeditiously.

3. Separate status reports in all the three cases have been filed.

4. FIR was lodged on the complaint of Piara Singh, Lambardar (*petitioner in CRM-M-26376-2023*), resident of Village Magrala, Tehsil Dinanagar, District Gurdaspur, as per which on 07.11.2018, his nephew Sukhwinder Singh (deceased) alongwith his friends Rahul Kumar S/o Sudarshan Kumar, and Suraj Kumar S/o Raj Kumar were standing near Chowk Magrala Road Chungi, Dinanagar. At that time, he (Piara Singh) alongwith his brother Prem Singh was going to Dinanagar to buy some household articles. When they reached a little behind Sukhwinder Singh, when at about 8.45 p.m., Davinder Saini (*petitioner in CRM-M-5755-2023*) armed with pistol, Kaka

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(alias Gurpreet -*petitioner in CRM-M-18018-2021*) armed with pistol; Pankaj Saini, Bunty, Sajan and Ankush all empty handed alongwith one unknown person. They all had come on their motorcycles and while raising *lalkara*, started abusing Sukhwinder Singh. Davinder Saini and Kaka started firing towards Sukhwinder Singh. As complainant shouted, all the assailants fled away on their motorcycles. Injured Sukhwinder Singh alongwith Rahul Kumar and Suraj Kumar were taken to the hospital, where Sukhwinder Singh was declared brought dead; whereas Rahul Kumar was referred to Amritsar and Suraj Kumar was taken to the Civil Hospital, Gurdaspur by his brother. Piara Singh also disclosed the motive for this occurrence, stating that few days earlier, Jatinder Singh, the brother of deceased Sukhwinder Singh had a scuffle with the aforesaid assailants and that on 17.10.2018, Jatinder Singh had got registered a case at Police Station Taragarh against above persons.

5.1 During investigation, postmortem of the dead body of Sukhwinder Singh was got conducted. In supplementary statement, complainant Piara Singh also nominated Davinder Singh @ Bhinda and Ankush Mahajan @ Thana to be involved in the crime. Co-accused Sajan, Devinder Singh @ Bhinda, Ankush Mahajan @ Thana and Ankush were arrested from time to time.

5.2 Petitioner – Gurpreet @ Kaka, who had earlier been apprehended in case FIR No.5 dated 08.01.2019, under Arms Act, registered at Police

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Station Bhogpur, District Jalandhar, was arrested in the present case after obtaining production warrants. Said petitioner admitted to have fired gun shots at Sukhwinder Singh (deceased), Rahul Kumar and Suraj Kumar. As per the petitioner, he had fired 03 gun shots, out of which one hit to Sukhwinder Singh on his chest, other to Rahul Kumar on his abdomen and the third to Suraj Kumar on his right arm biceps. The pistol used in the crime by said petitioner – Gurpreet @ Kaka was recovered in case FIR No.5 dated 08.01.2019 (*supra*). An application was moved to the Court concerned for obtaining the case property in the present case. However, it was reported by the S.H.O., Police Station Bhogpur that the pistol had already been sent to the FSL. The FSL report was obtained from S.H.O., Police Station Bhogpur, as received in case FIR No.5 dated 08.01.2019 (*supra*) and it was opined that country-made pistol was in working condition.

5.3 Status report further reveals that one of the accused, namely, Pankaj Saini as named in the FIR was initially declared innocent, but during trial, he was summoned by the Court under Section 319 Cr.P.C. After completion of investigation, final report under Section 173 Cr.P.C. was filed against petitioner – Gurpreet @ Kaka, besides Sajan, Ankush, Davinder Saini @ Bhinda and Ankush Mahajan @ Thana.

5.4 Later on, Jaspreet @ Channa (referred as unknown person in the FIR) was arrested in another case. After obtaining production warrants, he was

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arrested in this case on 19.03.2019. He admitted his involvement in the crime.

5.5 Accused – Davinder Saini (*petitioner in CRM-M-5755-2023*) was declared proclaimed offender by the Court on 28.01.2019 and later on, he was arrested on 07.09.2019 and supplementary challan qua him was filed.

6. It is contended by learned counsels on behalf of petitioners – Gurpreet @ Kaka and Davinder Saini that they have been falsely implicated; that there is no specific attribution that gun shots fired by any of them hit the deceased; that both of them are in custody for the last more than 04 years; and that trial is likely to take long time to conclude. Besides this, leaned counsels have drawn attention towards the statement of PW – Rahul Kumar, one of the injured, made during trial, who has not supported the prosecution case and stated that some unidentified assailants had fired upon them. It is also contended that the fire arms allegedly recovered during investigation were not sent to the FSL for necessary analysis so as to connect the petitioners with the crime. It is also contended that co-accused Jaspreet @ Channa and Bunty @ Sarabjit have already been allowed bail.

7. Strongly opposing the bail petitions, learned State counsel has drawn attention towards the testimony of PW – Piara Singh, the complainant of the case; as well as PW – Prem Singh, another eye witness, both of whom have specifically named the two petitioners, who had fired gun shots towards Sukhwinder Singh (mentioned as Mukhwinder in their testimony). Learned

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State counsel point out that even in the FIR, it is these two petitioners, who were specifically attributed to have fired gun shots towards the deceased. It is argued that injured – Rahul Kumar was won over during trial and so, his testimony to the effect that he could not identify the assailants, cannot give any advantage to the petitioners. Learned State counsel also submits that in case, the petitioners are released on bail, they are likely to threaten the witnesses. With these submissions, prayer is made for dismissal of the petitions.

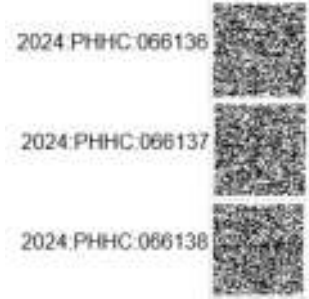
8. Having considered submissions of both the sides and having noticed the specific attribution to both the petitioners, who fired gun shots resulting into the death of Sukhwinder Singh @ Mukhwinder and the gravity of the offence, which entails punishment even up to death, and also the testimony of PWs – Piara Singh and Prem Singh made during trial, but without commenting anything further on the merits of the case, this Court is not inclined to grant the benefit of bail to any of these petitioners Gurpreet @ Kaka and Davinder Saini. As far as bail granted to co-accused Jaspreet Singh @ Channa and Bunty @ Sarabjit is concerned, their case is on entirely different footing as none of them are attributed to have given gun shot injuries to the deceased.

9. As such, both the petitions bearing Nos. CRM-M-18018-2021 and CRM-M-5755-2023 are hereby dismissed.

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10. As far as CRM-M-26376-2023 filed by complainant – Piara Singh is concerned, the same is hereby disposed of with a direction to the Trial Court concerned to make every possible effort to conclude the trial expeditiously by giving short dates.

Photocopy of this order be placed on the connected case files.

(DEEPAK GUPTA)
JUDGE

May 13, 2024
sarita

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No