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(230)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 16.05.2024

GURBJAJAN SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

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.183 dated 02.11.2021 registered under Sections 302, 307, 148, 149, 447, 511, 120-B IPC, 1860 and Sections 25 & 27 of Arms Act, 1959 (Section 450 IPC, 1860 added later on) at Police Station Sadar Ferozepur, District Ferozepur.

2. The present FIR came to be registered at the instance of Mahinder Singh and the same reads as under:-

*“12. FIR Contents attach separate sheet if required):
Statement of Mahinder Singh son of Purana Bare, Police
Station Sadar, Ferozepur, aged about 70 years, M. No. 97812-
17218 Stated that I am a resident of above said address and
do agriculture. I have two sons elder is Kabal Singh aged
about 46 years and younger is Bakshish Singh, aged about 44
years. Both are married and live jointly with family For a*



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long period, Bhagwan Singh @ Pagga and his brothers of our village have a dispute with Jarnail Singh son of Kartar Singh over 36 marlas of land approximately on main Adda of village but Bhagwan Singh party had taken the possession over above said land as per procedure as per orders of Hon'ble Punjab and Haryana High Court. But Jarnail Singh was not tolerating this and he was bent upon to take revenge of this defeat. But after taking over the possession of land, Bhagwan Singh party had sold their this land to Waryam Singh and Guljar Singh, residents of Suba Qadim and Bakshish Singh (my son), Wassan Singh, Gurmej Singh, Satpal Singh, Kashmir Singh and Lakhwinder Singh, residents of Bare Ke. But despite this, Jarnail Singh and his brother-in-law Gurdeep Singh wanted to take over the possession of this land in every manner, due to which, Jarnail Singh and his brother Amar Singh with their relatives Gurdeep Singh and Balvir Singh, in collusion with the co-sharer of above said land Waryam Singh s/o Piara Singh and Guljar Singh son of Ishar Singh, residents of Suba Qadim, purchased 11 marlas of land out of this land and got registered the sale deed of said land in name of their relative Gurpreet Singh son of Surjit Singh, resident of Mohkam Bhatti and raised a wall in their share of land but they were not satisfied over it and wanted to take possession over the whole land, due to which he demolished the wall on 30.10.2021 and tried to take the possession over the said land. We came to know about the demolition of the wall in the morning and yesterday evening we all the relatives gathered and fixed the time today in the morning for compromise. Today I and my sons Bakshish Singh and Kabal Singh, Rishpal Singh and Gurmeet Singh son of Wassan Singh R/o Machhiwara and Sukhwinder Singh s/o Kashmir Singh, Jang singh s/o Balvir Singh, residents of Bhambha Haji,



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Lakhwinder Singh s/o Swaran Singh R/o bare Ke, reached the house of Jarnail Singh near the land in dispute for talks. Our remaining relatives and other panchayat persons were yet to come that on seeing us, Jarnail Singh, armed with 12 bore rifle and his brother Amar Singh armed with 12 bore rifle, Joginder Singh armed with dang, Surjit Singh @ Baggu armed with 12 bore rifle, Jarnail Singh's son Gurpreet Singh armed with 315 bore rifle, Gurnam Singh son of Jarnail Singh armed with pistol, Harpreet Singh and Malkeet Singh armed with 12 bore rifle, sons of Gurdeep Singh, residents of Bare Ke, Gurdeep Singh son of Kartar Singh armed with 12 bore rifle, residents of Bare Ke, Jassu son of Kartar Singh armed with 315 bore rifle, residents of Bare Ke and Waryam Singh son of Piara Singh, armed with revolver, Guljar Singh son of Ishar Singh, residents of Suba Qadim, came out of the house of Jarnail Singh and behind them Jarnail Singh's wife Surjit Kaur, Sumitra Bai wife of Gurdeep Singh and Paramjit Singh son of Joginder Singh, armed with Hockey, Kalu son of Amar Singh, armed with Kapa and Amar Singh's sons, the names of whom I do not know, armed with barchha, Pritam Singh, Ex. Member, Gaggi s/o Pritam Singh, armed with kirpan, Joginder Singh son of Jagir Singh armed with '315 bore rifle, residents of Bare Ke and Raju son of Balvir R/o Jhugge Nihange Wale came out of the house of Jarnail Singh. 4-5 unknown persons were accompanying them. We inquired from Jarnail Singh about demolishing the wall, whereupon Gurbhajan Singh and Pritam Singh became agitated and raised a lalkara (exhortion) to teach us a lesson for taking the land. At this, Waryam Singh fired a shot from his revolver, which went above my head. In the meantime, Gurpreet Singh fired a shot from his 315 bore rifle at my son Bakshish Singh in his head 'and Jarnail Singh fired 2 shots from his 12 bore



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rifle. One fire shot hit in chest of my son Kabal singh and second fire shot hit in the abdomen of Rishpal Singh son of Wassan Singh. In the meantime, Malkeet Singh son of Gurdeep Singh fired a shot from his 12 bore rifle, which hit in abdomen of my son Bakshish Singh and both my sons Kabal Singh and Bakshish Singh fell down on the ground. We raised an alarm saying, "Mar ditta, Mar ditta" (killed-killed), whereupon remaining accused, while raising lalkaras and firing shots, went inside the house of Jarnail Singh and Pala son of Rattan Singh and Sunny son of Iqbal Singh, residents of Nawa Bare Ke, came in red color Swift car and after making Jarnail Singh, Harpreet Singh, Gurdeep Singh to sit in the car, went away. All the above said accused, who had illegal and licensed weapons, went away from the spot with their respective weapons. I and Sukhwinder Singh, Jang Singh, Lakhwinder Singh and Gurmeet Singh saw this whole incident. This incident is of at about 6.00 A.M. The cause of grudge is that Jarnail Singh and his relative Gurdeep Singh etc., in collusion with other accused, wanted to take over the possession of our above said land. Due to this grudge, today in the early morning, Jarnail Singh and his accomplices, duly armed with weapons, have murdered my sons Bakshish Singh, Kabal Singh by firing shots and have seriously injured Rishpal Singh. Rishpal Singh is admitted in Baghi Hospital, Ferozepur in an injured condition and dead bodies of Bakshish Singh, Kabal Singh are lying in Civil Hospital, Ferozepur. Legal action be initiated against above said accused. I have got recorded my statement. I have heard the same, which is correct. Sd/- Mahinder Singh, aforesaid. Corroborated by:- Sd/- Gurmeet Singh son of Wassan Singh, resident of Bare Ke. Attested:- Sd/- Satpal Singh, Insp. SHO, Police Station Sadar Ferozepur Date: 2.11.2021."

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3. The learned counsel for the petitioner contends that only a Lalkara has been attributed to the petitioner. Three co-accused of the petitioner namely, Gurdeep Singh, Paramjit Singh and Amarjit Singh @ Amar Singh have been granted bail by this Court vide order dated 05.03.2024 (Annexure P-2). As the petitioner was in custody since 24.06.2022 but only 02 of the 39 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

4. A reply dated 16.05.2024 by way of an affidavit of Sukhwinder Singh, PPS, Deputy Superintendent of Police (City) Ferozepur has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the petitioner was a part of an unlawful assembly and therefore, was liable even though no specific injury had been attributed to him moreso when it was a case of double murder. He, therefore, contends that the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 24.06.2022, only 02 of the 39 prosecution witnesses had been examined so far and that three co-accused had been granted the concession of bail by this Court vide order dated 05.03.2024 (Annexure P-2).

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner has not caused any injury on the person of the deceased. His culpability with the aid of Section 149 IPC shall be adjudicated upon during the course of the Trial. He is stated to be in

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custody since 24.06.2022 but only 02 of the 39 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioners is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gurbhajan Singh son of Sucha 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.

8. 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.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each 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.

10. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

16.05.2024

JITESH

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