

(239)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20855-2024
Date of Decision: 02.05.2024

AMARJIT SINGH @ BALI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jupinder Pal Singh Brar, Advocate
for the petitioner.

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

JASJIT SINGH BEDI, J.

This 3rd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.84 dated 01.07.2019 registered under Sections 302/148/149 IPC at Police Station Bhikhi, District Mansa.

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

“Copy of Statement, Statement of Lakhwinder Singh Son of Bikkar Singh Son of Jaggar Singh resident of Village Dhalewan aged about 18-19 years. Stated that I am resident of above said address and I am agriculturist by profession. We are two brothers. Elder to me is Sukhchain Singh Alias Kala who is married and blessed with one daughter. Yesterday on 30.JUN.2019 at about 5:30 PM, My brother Sukhchain Singh @ Kala is coming to Bhikhi. I alongwith my mother Manjit Kaur on other motorcycle were going to Bhikhi for the medicine and my brother Sukhchain Singh on motorcycle was ahead of us. When my brother Sukhchain Singh @ Kala on his motorcycle was 150 yards behind

village Mohar singh wala Link road drain bridge, then from the opposite side One Verna Çar Colour White was Car Co parked then all of a sudden from the car, Amarjit Singh @ Bali Son of Lakhvir Singh, Lovepreet Singh Son of Jarnail Singh, Bhupinder Singh Son of Butta Singh, Kuljit Singh @ Gandhi Son of Jagtar Singh residents of Dhalewan and 2 unknown persons alighted. Amarjit Singh @ Bali was armed with sword, Lovepreet Singh was armed with sword, Kuljit Singh @ Gandhi was armed with sword, Bhupinder Singh @ Happy was armed with iron rod and two unknown persons were armed with sticks and they attacked my brother Sukhchain Singh @ Kala in order to kill him. Amarjit Singh @ Bali inflicted sword blow upon my brother which hit on his head. Kuljit Singh @ Gandhi inflicted sword blow upon my brother which hit on his right knee. Lovepreet Singh @ Kinu inflicted sword blow which hit on left leg of upon my brother due to which he fell down. Then Bhupinder Singh @ Happy inflicted rod blow which hit near bone on right leg of my brother. Both unidentified persons started beating my brother with their armed sticks. All of these persons had given many more injuries upon head and legs of my brother. Then I along with my mother raised hue and cry. People gathered there. Thereafter all above said persons fled away from the spot alongwith their respective weapons over their Verna Car. Then I and my mother had arranged vehicle and got admitted my brother in government Hospital, Bhikhi. Afterwards given first aid, he was referred to Rajindra Hospital Patiala, thereafter he was referred to PGI Chandigarh but due to serious condition of my brother, we got him admitted at Amar Hospital, Patiala where during treatment my brother Sukhchain Singh @Kala was died. Motive behind the occurrence was that about two months ago, heated exchange of words took place in between my brother and aforesaid assailants Amarjeet Singh @ Bali and

others, due to which aforesaid assailants committed murder of my brother Sukhchain Singh after causing injuries. Action be taken against them. I have suffered you the statement, heard and admitted to be correct. Corrected Lakhwinder Singh above said. I, Rajinder Singh Son of Jaggar Singh, have corroborated the version of statement of my nephew Lakhwinder Singh. SD/- Rajinder Singh testify to be corrected Shivji Ram. SI Police Station Bhikhi Dated 1.7.2019.”

3. Pursuant to the registration of the FIR, the first report under Section 173(2) Cr.P.C. came to be submitted against Amarjit Singh @ Bali son of Lakhvir Singh, Lovepreet Singh son of Jarnail Singh, Bhupinder Singh son of Butta Singh and Kuljit Singh @ Gandhi son of Jagtar Singh.

4. The charges were framed on 05.02.2020 and all the 22 prosecution witnesses were examined.

5. Meanwhile, an application was moved to lead secondary evidence to prove an inquiry report as per which Amarjit Singh @ Bali (petitioner) had been exonerated. The application was allowed by this Court vide order dated 27.03.2023. The copy of the said order is attached as Annexure P-10 to the petition.

6. During the course of leading defence evidence DW6 prove the inquiry report regarding the innocence of the petitioner and the copy of the inquiry report is attached as Annexure P-9 to the petition.

7. As the report dated 18.10.2019 (Annexure P-9) exonerated the petitioner a supplementary challan was submitted exonerating the petitioner. The copy of the order showing the filing of the supplementary challan dated 23.02.2024 is attached as Annexure P-3 to the petition.

8. The learned counsel for the petitioner contends that though initially, all the prosecution witnesses had been examined pursuant to the first challan inculcating the petitioner, a supplementary challan has now been submitted exonerating the petitioner. As the petitioner was in custody since 06.07.2019 and there was likelihood of a *de novo* Trial in light of the supplementary challan, the petitioner was entitled to the concession of bail.

9. On the other hand, the learned State counsel has not disputed the factual position narrated hereinabove. He, however, states that as all the prosecution witnesses had been examined, the petitioner ought not to be granted the concession of bail.

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

11. Admittedly, on the basis of the first challan inculcating the petitioner all the prosecution witnesses were examined. Thereafter, an application for leading secondary evidence in respect of an inquiry report exonerating the petitioner was allowed and the said report was exhibited by DW6. Based on the said report, a supplementary challan exculpating the petitioner has been submitted in Court on 23.02.2024. It would be a moot point during the course of the Trial as to the culpability of the petitioner in light of the supplementary challan. The petitioner is otherwise in custody since 06.07.2019 and in this situation, his further incarceration is not required.

12. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Amarjit Singh @ Bali son of Lakhvir Singh is ordered to be released on bail subject to his furnishing bail bonds

and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

13. 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.

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

15. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

02.05.2024
JITESH

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