

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

CRM-M-21051-2024

Date of Decision:-03.05.2024

Gursewak Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Puran Singh Hundal, Senior Advocate assisted by
Mr. Ankush Chauhan, Advocate for the Petitioner.

Mr. Vinay Kumar, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.101 dated 22.06.2019 under Sections 302, 120-B, 34 IPC and Section 52-A/1 of Prisons Act registered at Police Station Sadar Nabha, District Patiala (Punjab).

2. The present FIR came to be registered at the instance of Superintendent New District Jail, Nabha which reads as under:-

“ At this time, one letter No. 3151/W dated 22.06.2019 from S. Balkar Singh, Superintendent, New District Jail, Nabha relating to the Police action by Inspector Jai Inder Singh Randhawa, S.H.O., Police Station: Sadar, Nabha, for registration of the case against prisoner Maninder Singh @ Jumma son of Harbans Singh, resident of Village Bhagrana, P.S. Wadali Ala Singh, District Fatehgarh Sahib and convict Gursewak Singh @ Bhoot son of Sansar Deep Singh, resident of Jheorheri, P.S. Sohana, District Mohali through Constable Satbir Singh 3356 which reads as under: "To The S.H.O., P.S. Sadar, Nabha, District Patiala. Ref. No. 3151/W dated 22.06.19, Subject: For taking

appropriate legal action against prisoner Maninder Singh @ Jumma son of Harbans Singh and convict Gursewak Singh @ Bhoot son of Sansar Deep Singh, who had assaulted prisoner Mohinder Pal Singh alias Bittu son of Ram Lal, connected with the Bargari episode and for taking appropriate legal action. With reference to the above subject, it is submitted, that prisoner Maninder Singh alias Jumma son of Harbans Singh, resident of Village Bhagrana, P.S. Wadali Ala Singh, District Fatehgarh Sahib is confined in this jail in case F.I.R. No. 60, dated 19.09.2015, under Sections 302, 148, 149 I.P.C., P.S. Wadali Ala Singh. He is confined in Cell Block No. 3, Cell No. 10 and convict Gursewak Singh alias Bhoot son of Sansar Deep Singh, resident of Jheorheri, P.S. Sohana, District Mohali is undergoing life sentence in this jail in case F.I.R. No. 17, dated 08.07.2014 under Sections 302/34, 506, 148, 149 I.P.C., Section 25 Arms Act, P.S. Sohana and he is confined in Cell Block No. 2, Cell No. 11 of this jail. Today, i.e. on 22.06.2019, at about 05.20 p.m., these prisoners assaulted prisoner Mohinder Pal alias Bittu son of Ram Lal, resident of Shaheed Bhagat Singh College Road, Jaurian Chakkian Chowk, Kotkapura, who is confined in this jail in various cases relating to desecration of religious books is also confined in Cell No. 2 in the Cell Block No. 1 in this jail. He was assaulted by the accused by cutting a grill of the gate. During this assault, Mohinder Pal alias Bittu son of Ram Lal sustained injuries and he was referred to Civil Hospital, Nabha by the Medical Officer of Hospital in New District Jail, Nabha. The injured was sent to Civil Hospital, Nabha with the Jail Guard at about 05.30 p.m. This prisoner Mohinder Pal alias Bittu son of Ram Lal was declared dead by the Doctors in Civil Hospital, Nabha. Indulging in fights etc. in the jail is an offence. Therefore, appropriate legal action be taken against prisoner Maninder Singh alias Jumma son of Harbans Singh, resident of Village Bhagrana, P.S. Wadali Ala Singh, District Fatehgarh Sahib and convict Gursewak Singh alias Bhoot son of Sansar Deep Singh, resident of Village Jheorheri, P.S. Sohana, District Mohali and the action so taken may be intimated to this Office." Sd/- Balkar Singh, Superintendent, New District Jail, Nabha, dated 22.06.2019."

3. The learned Senior Counsel for the petitioner contends that the allegations levelled against the petitioner are baseless. The CCTV cameras installed in the premises of the jail were not examined so as to ascertain the

exact role played by the petitioner. The wife of the deceased Mohinder Pal @ Bittu had filed CWP No.23220-2021 titled as Santosh Kumari Vs. The State of Punjab & Ors. seeking re-investigation which had been ordered by this Court on 18.08.2022 because of which the Trial had effectively been stayed since August 2022. In FIR No.147 dated 08.07.2014 under Sections 302, 148, 149, 341 IPC and 25/54/59 of Arms Act P.S. Sohana in which he was incarcerated the petitioner stood convicted. Co-accused Maninder Singh had been granted the concession of bail vide order dated 15.04.2024 in CRM-M-12728-2023. Therefore, the petitioner was entitled to the concession of bail in the present case as he was in custody for the last more than 04 years.

4. The learned State counsel on the other hand contends that the petitioner and his co-accused attacked the deceased while he was incarcerated in jail. Therefore, the petitioner was not entitled to the concession of bail. He however concedes that the petitioner was in custody since the last 04 years, Maninder Singh co-accused had been granted bail and in the instant case the Trial had been effectively stayed as further investigation was still pending.

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

6. Santosh Kumari, the wife of the deceased Mohinder Pal @ Bittu had filed a petition seeking further investigation vide CWP-23220-2021. On 18.8.2022 the following order was passed:-

“[25]. The issue involved in the present case is also connected with the sacrilege cases in which allegations have been made against deceased Mohinder Pal @ Bittu. Since those cases have been and are being investigated by different SITs including the investigation by SIT headed by Sh. Surinderpal Singh Parmar, IPS, therefore, I deem it appropriate to direct that the composition of the present SIT shall be revisited, thereby

putting high ranking police officers not below the rank of the persons against whom allegations have been made in the diary note. Even though, some of the high ranking police officers are retired, but it shall be ensured by respondent No.1 that proper and legal investigation is carried out by the new SIT to be headed by Additional Director General of Police i.e. not less than the rank of Additional Director General of Police and constituent members of the SIT may not be lower than the rank of Senior Superintendent of Police. New SIT will take over the investigation from the SIT headed by Sh. Kesar Singh, PPS, SP(PBI), Patiala and shall carry out further investigation and submit its report to the concerned Court at the earliest.

[26]. With these observations, the present writ petition is disposed of.”

7. As further investigation had been ordered, the Trial has been effectively stayed as is apparent from the order dated 28.03.2024 which is reproduced hereinbelow:-

“ Present:- Shri Charanjit Bhullar, Addl. PP for the State.

Shri Varinder Singh Bains, Advocate for accused Lakhvir Singh.

Accused Gursewak Singh, Maninder Singh in custody produced through VC represented by Shri Varinder Singh Bains, Advocate.

Accused Jaspreet Singh on bail with Shri Varinder Singh Bains, Advocate.

Sh. Jaspreet Singh, Advocate for accused Harpreet Singh.

Heard. In view of facts of the applications, personal appearance of accused Lakhvir Singh and Harpreet Singh is exempted for today. Accused Gursewak Sigh and Maninder Singh produced by the Jail Authorities through Video Conferencing. Further report of SIT not received. However, NEW SIT has been formed. Let report of New formed SIT be awaited for 06.05.2024.

Date of Order: 28.3.2024
(Manoj Kumar), Stenographer-II.

(Jaspinder Singh)
Sessions Judge,
Patiala/(PB00148).”

8. Admittedly, the petitioner is stated to be in custody since the last 04 years, when the present FIR had been registered against him, while he was in custody in FIR No.147 dated 08.07.2014 P.S. Sohana. The petitioner has been in custody for the last more than 04 years and there is little likelihood of the Trial proceeding as further investigation is still pending. In this situation the further incarceration of the petitioner is not warranted.
7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Gursewak Singh** son of Sh. Sansardeep 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.
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 one.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 03, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No