

2024:PHHC:152817



CRM-M-28560-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28560-2024 (O&M)

Date of Decision: 21.11.2024

KARAMJEET SINGH

... Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sonpreet S. Brar, Advocate
for the petitioner.

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

Mr. P.S. Ahluwalia, Advocate with
Mr. Jaiveer Singh, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.22 dated 28.01.2021 registered under Sections 302, 307, 452, 323, 429, 148, 149, 193 of IPC and Sections 25, 27, 54, 59 of Arms Act (Sections 302, 193, 194, 120B IPC added later on) at Police Station Ajnala, District Amritsar.

2. The brief facts of the case are that one Pargat Singh son of Boota Singh got registered an FIR No.22 dated 28.01.2021 under Sections 302, 307, 452, 323, 429, 148, 149 IPC and Sections 25 and 27 of Arms Act with the

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allegations that Harpreet Singh son of Balram Singh, Gagandeep Singh son of Sukhdev Singh, Sukhdayal Singh son of Jasbir Singh, Kalu son of Toti, Mukha son of Toti, Manu son of Ghuk, Gurwinder Singh son of Mukhtar Singh, Happy son of Balkar Singh, Harsimran Singh son of Jagtar Singh, Kaka son of Balwinder Singh and 10/15 unknown persons had caused the death of his servant Jagtar Singh and had caused gunshot injuries on the person of his daughter-in-law Sachinpreet Kaur wife of Agyapal Singh and his pet dog as well.

3. After the registration of the aforementioned FIR, a cross case/G.D. No.20 dated 28.01.2021 came to be registered under Sections 307, 452, 379, 506, 336, 148, 149 of IPC and Sections 25, 27/54 of Arms Act, 1959 Police Station Ajnala, Amritsar Rural on the statement of one Jaskaran Singh against Pargat Singh son of Buta Singh, Manpreet Singh son of Buta Singh, Agyapal Singh son of Pargat Singh, Bikramjit Singh son of Pargat Singh, Rajinder Singh son of Pargat Singh, Chan son of Karamjit Singh, Vishal son of Manpreet Singh and Sunny Masih son of Dharma Masih along with 3-4 unknown persons with the allegations that Pargat Singh and his co-accused had caused gunshot injuries on the persons of Kuldeep @ Kaka and Harsimran Singh.

4. After the registration of the above-said FIR and cross-case, 14 applications were given by both the parties and a detailed and thorough

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enquiry was conducted by Mr. Gaurav Toora, IPS the then Superintendent of Police (Investigation), Amritsar, Amritsar Rural. The officer recorded the statements of both the parties, inspected the spot and the CCTV camera installed in the house of Pargat Singh was also taken into possession. After conducting a detailed enquiry, the Superintendent of Police (Investigation), Amritsar, Amritsar Rural reached the following conclusion as per his report dated 21.09.2021 (Annexure P-7) submitted to the Senior Superintendent of Police, Amritsar Rural:-

“During enquiry, from the statements of both the parties, documents presented by them, from on the spot secret and declared enquiry and on perusal of the case file it has been found that the CCTV cameras installed in the house of the complainant Pargat Singh, which, during investigation, were taken by Inspector Ravinder Pal Singh, SHO P.S. Ajnala into police custody. For an in-depth investigation with regard to the incident of this case, during the investigation of the case, the DVR which is in police custody from Pargat Singh's house, where their servant Jagtar Singh has been killed, that DVR was sent for examination by the O/o Senior Superintendent of Police, Amritsar Rural vide letter No. 840/CD dated 28.06.2021 to the Hon'ble Director, Dietech Mohali, wherefrom, in this connection vide letter No. 637-21/CC-L dated 19.07.2021, one hard disc consisting of recording of the incident in the DVR has been received. In order to see the video in the hard disc, the recording/movie was minutely examined on the personal laptop, the video of the day of the incident was seen and photos were got prepared from it, the men and women



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seen in this video were got identified secretly and openly, on perusal of which the following facts have come to light -

(i) At 1:17 PM Pargat Singh and his son Agya Pal Singh taking along daangs, sotey are seen in camera No. 2 going out through the big door of the haveli.

(ii) At 03:29 PM around 12 police officials amongst whom SI Jugraj Singh, ASI Gurbaksh Singh etc. are seen conducting search in Pargat Singh's house in the haveli for taking the motorcycle, who, on not getting the motorcycle, are seen going back at 3:41 P.M.

(iii) At 3:43 PM, in camera No. 05, Jatinder Singh alias Chan S/o Karamjit Singh goes out of haveli taking along the pump used to fill air and Pargat Singh, complainant in the case, after filling the air in motorcycle hands it over to the Police party from the chhotigali side and Jatinder Singh alias Chan at 3:49 PM return and enters inside the haveli taking along the pump used to fill the air.

(iv) At around 04:07 PM, according to DVR, out of Pargat Singh's residential rooms, Manpreet Singh's wife Sukhjinder Kaur (wearing red suit) DBBL rifle and Rajinder Singh S/o Pargat Singh (wearing white shirt and sweater) armed with DBBL rifle comes out of the room of the residential rooms at a very fast pace, Sukhjinder Kaur hand over the rifle to some other person and out of haveli 6/7 persons taking along rifles and other deadly weapons are seen running outside towards gali through the big gate on a fast pace.

(v) Few seconds after around 04:09 PM, all the aforesaid persons enter from the outer gate inside the haveli by running through the haveli's gate and are seen covering their rifle with cloth.



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(vi) At around 04:10 PM, in the camera inside the haveli, sand is seen blowing due to hitting by a fire in the cattle verandah.. Due to which the cattle and the dog are seen restless due to fear. At that time Pargat Singh, Manpreet Singh etc. around 10/12 members are seen inside the haveli and the house's vehra and the main gate of the haveli is closed.

(vii) At 4:11 PM Manpreet Singh and his accomplice armed with weapons are seen going through the small gate inside the house's vehra towards the gali out, which goes towards the house of his brother Karamjit Singh's house.

(viii) At 04:16 PM (according to DVR) Manpreet Singh along with his accomplices Sukhchain Singh S/o Bhola Singh R/o Dhariwal Kaler and 01 unknown person armed with weapon is seen entering the vehra of the house through the small gate, at that time deceased Jagtar Singh and the other servant are seen standing in the haveli in camera No. 2.

(ix) At 04:16:12 seconds of DVR, Sukhjinder Kaur W/o Manpreet Singh is seen standing in lobbying and takes her arm inside the room in Camera No. 04 installed in the lobby of the house and at that time only the cameras' recording stops. From which it appears that she had closed the switch of the DVR of the cameras.

(x) At around 04:16:12 second Manpreet Singh (wearing black kurta pyjama) is standing holding rifle, on some distance Jagtar Singh servant is seen standing in the haveli, in the meantime camera No. 02 stops.

(xi) On perusal of hard disc of DVR received through Director, Dietech, Mohali, on the day of the incident the



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cameras remain shut after time 4:16:12 PM and due to stopping all the cameras it is difficult to know about the exact time. The case's Investigating Officer Inspector Ravinder Pal Singh, SHO P.S. Ajnala takes the DVR into police custody as evidence.

(xii) On seeing the whole video no outer person of the second party is seen entering inside the haveli of complainant in the case Pargat Singh S/o Buta Singh by climbing wall.

As per the time going on in the DVR, at 04:16-12 second when the cameras had stopped, at that time servant Jagtar Singh is seen standing in the haveli and at some distance Mandeep Singh is seen standing holding rifle in the other camera, after which the DVR of these cameras did not get switch on again. Sometime after this only SHO P.S. Ajnala gets the information about the servant Jagtar Singh being hit with bullet and taking place of fight.

1. On 27-10-2020 Pargat Singh, Manpreet Singh sons of Buta Singh residents of Chamiyari armed with weapons, around 15/20 persons taking along 4-5 tractors had tried to take the possession of Gurdwara Sahib's land, in which connection Rupinder Singh S/o Baldeep Singh R/o Chamiyari had got registered against them Case No. 337/2020 P.S. Ajnala. (The photos and copy of the FIR is enclosed as proof).

2. On 28-01-2021 at 02:00/02:30 PM Kuldeep Singh alias Kaka S/o Salwinder Singh, Harvinder Singh alias Happy S/o Balkar Singh residents of Village Mukam, after parking the motorcycle in the gali, goes inside the house of Sukhdayal



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Singh Mistry R/o Chamiyari, Pargat Singh, Manpreet Singh etc. picks up the motorcycle and takes it inside their haveli, where an argument starts between both the parties.

3. On hearing news about the motorcycle, Kuldeep Singh alias Kaka S/o Salwinder Singh R/o Mukam etc. along with supporters armed with weapons reaches Village Chamiyari on motorcycles. This thing is also verified from the photos and CCTV cameras' footage presented by Pargat Singh.

4. Kuldeep Singh party's persons give information in the Police Station about taking of motorcycle inside his haveli by Pargat Singh party, on which Ravinder Pal Singh SHO Police Station, during the tension built between both the parties, the Police official brings the motorcycle from someone's house of Pargat Singh party and gets it returned to Kuldeep Singh party. This thing is verified from the video made by Inspector Ravinder Pal Singh, SHO Police Station on his mobile phone.

5. As per the statement of Pargat Singh, at around 4:00 PM the attacker party Harpreet Singh S/o Balram Singh, Gagandeep Singh S/o Sukhdev Singh, Rupinder Singh S/o Baldeep Singh etc. 10 persons, had climbed the walls of his house and had done firing after entering inside the haveli and Harpreet Singh had fired bullet with DBBL on servant Jagtar Singh, due to which Jagtar Singh had died whereas during investigation a certificate of Harpreet Singh being about 45% handicapped issued by Civil Surgeon, Amritsar has come on case file, hence climbing 8-9 ft. high wall and entering in the house appears impossible and in the video also no person is seen entering inside the haveli by climbing the walls of Pargat Singh's house.



6. As per the case got registered by Pargat Singh, Harpreet Singh S/o Balraj Singh R/o Chamiyari had climbed the walls of his house/haveli and he had killed his servant Jagtar Singh by firing bullet from 12 DBBL rifle from very near, whereas no motive of Harpreet Singh party has come to light of firing bullet on Jagtar Singh and neither servant Jagtar Singh's any enmity with them comes to light.

7. On seeing the video of the cameras installed in Pargat Singh's house on date 28.01.2021 on the day of the incident from 1-00 PM to 4-16-12 second PM (upto when the cameras were close), it has been found that Manpreet Singh, Pargat Singh and other unknown persons present with them had weapons is seen in cameras' recording, in such circumstances some outer person killing the servant after climbing the walls appears suspicious.

8. Case No. 154/2014 U/s 302 IPC 25/27 Arms Act P.S. Ajnala is registered against Manpreet Singh, in which he is undergoing punishment and was on parole leave during the time of the incident.

9. As per the statements written during the investigation of the case, Pargat Singh party's women were in the backside portion of the house, who being hit with pallets appears suspicious. In this connection medical opinion is require to be taken during investigation.

10. The fight between both the parties had first taken place in the gali, where bullets were fired and this incident, as per the time of the DVR, had taken place between 04:07 PM to 04:10 PM. Harpreet Singh party's person Kuldeep Singh alias Kaka and Harsimranjit Singh alias Noni had got injured in the gali, is verified, whereas they had made the



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incident of the haveli of Mohan Pal Singh, which is verified to be suspicious. Whereas the Investigating Officer had picked blood soaked sand and khol of the cartridge from the gali.

11. Earlier also cases are registered against Manpreet Singh, Pargat Singh party for murder and under several other grievous sections, the details of which is as follows:-

(i) Case No. 84 dated 08-08-2021 U/s 380, 411 IPC P.S. Ajnala

(ii) Case No. 246 dated 26-01-2013 U/s 323, 452, 380, 148, 149 IPC P.S. Ajnala

(iii) Case No. 131 dated 23-06-2013 U/s 323, 325, 148, 149 IPC P.S. Ajnala

(iv) Case No. 138 dated 07-07-2013 U/s 382, 323, 149 IPC P.S. Ajnala

(v) Case No. 154 dated 05-07-2014 U/s 302, 307, 324, 506, 148, 149 IPC Arms Act, P.S. Ajnala

(vi) Case No. 102 dated 2015 U/s 323, 324, 379, 34 IPC P.S. Ajnala

(vii) Case No. 15 dated 26-06-2016 U/s 18, 21, 29, 61, 85 NDPS Act P.S. SPR Cell, Amritsar

(viii) Case No. 142 dated 19-08-2016 U/s 353, 186, 337, 295-A IPC P.S. Ajnala

(ix) Case No. 14 dated 13-01-2019 U/s 336, 506, 427, 148, 149 IPC P.S. Ajnala

12. Since the record of Manpreet Singh and Pargat Singh party is of criminal nature, hence no unbiased person is ready to come in front and to give witness.

13. After getting information about the incident of Jagtar Singh servant being hit with bullet, the police party had reached the



spot after around 40 minutes, till then Jagtar Singh servant had remained in Pargat Singh's house (haveli) only in injured state, Pargat Singh party not making any effort for taking him for treatment, when the police party had reached, then on repeatedly being said upon by Inspector Ravinder Pal Singh, SHO P.S. Ajnala, the injured was taken to Ajnala Hospital, where Jagtar Singh was declared dead.

14. During investigation Karamjit Singh had alleged against Harpreet Singh S/o Balram Singh R/o Chamiyari about firing second bullet on the deceased Jagtar Singh, whereas as per the postmortem report the deceased had been hit by one bullet only. Harpreet Singh, against whom it is alleged that he had climbed the wall and had opened the door, he, vide Certificate No. 1020 dated 5.07.1996 issued by Civil Surgeon office, Amritsar, is 45% handicap physically.

15. During investigation the deceased Jagtar Singh bhanevi Manjit Kaur W/o Paramjit Singh R/o Vichhoa had stated that her mama Jagtar Singh did not had any family member, who, on coming to them, had often being stating that Pargat Singh etc. are not giving him salary, on demanding salary they threaten to kill and beats him.

16. During investigation Bikramjit Singh S/o Pargat Singh R/o Chamiyari, who has been got written as accused in the cross case, whereas at the time of the incident mentioned in the cross case, he was at Lavour Main Land, Immigration Office, Kabir Park, Amritsar is stated. In this connection Bikramjit Singh had not produced any concrete proof.

17. As per jimni No. 02 dated 29-01-2021 from Inspector Ravinder pal Singh, SHO, P.S. Ajnala, Rupinder Singh S/o Baldeep Singh R/o Chamiyari was involved in the fight during



the time of the incident, is not verified, who had been declared innocent in the main case.

18. On perusal of video footage of the CCTV cameras installed in Pargat Singh's house, no person of the other party is seen entering in their house/haveli by climbing walls, only 9/10 of their family members and around 6/7 Manpreet Singh's known accomplice are seen roaming in their house and haveli in the video cameras.

19. The case which Pargat Singh had got registered in connection with the murder of his servant Jagtar Singh, in it, Gurdwara Committee which is registered, its member Harpreet Singh S/o Balram Singh (Meet Pradhan), Gagandeep Singh S/o Sukhdev Singh (Secretary), Mandeep Singh alias Sonu S/o Guljar Singh (S.T.) and Savinder Singh, Member (S.T.)'s sons Lakha Singh alias Kalu and Mukhtar Singh alias Mukha's names have also been got written in the aforesaid case, from which the possibility of this thing is also not denied that pressure may be built on the members that they may not follow up in any manner about the land of Gurdwara Sahib, in which connection Case No. 337/2020 P.S. Ajnala has got registered on the statement of the committee's Pradhan against Pargat Singh etc.

20. According to the written report obtained from Electricity Board's SDO, on 28-01-2021 the electricity supply had continued without any obstruction. The cameras which had stopped on this day, they had not stopped due to closing of electricity supply, rather they had been closed themselves.

S.P.

“The verification/investigation with regard to the incident of this case had been taking place upto now. During



investigation, from the secret and declared enquiry conducted from both the parties related to the case, it has been found that on 27-10-2020 Pargat Singh, Manpreet Singh sons of Buta Singh and his accomplices had tried to take the possession of Gurdwara Shri Bauli Sahib, Village Chamiyari's 10 killa 02 kanals land, in which connection on the statement of Rupinder Singh (Pradhan, Gurdwara Committee, Bauli Sahib) S/o Baldeep Singh R/o Chamiyari, Case No. 337 dated 27-10-2020 U/s 447, 511, 506, 148, 149 IPC 25,27-54-59 Arms Act P.S. Ajnala was registered against Pargat Singh and his accomplices, due to which reason in the enmity of this case only a lot of stress was built between Pargat Singh and Rupinder Singh S/o Baldeep Singh party. On 28-1-2020 Jaskaran Singh S/o Balbir Singh and Gurvinder Singh S/o Mukhtar Singh residents of Mukam at 02:00/02:30 PM were at Ramdas in connection with their some important work, where they had received phone of Kuldeep Singh alias Kaka S/o Salwinder Singh R/o Mukam that he and Harvinder Singh alias Happy S/o Balkar Singh, Harsimran Singh alias Noni S/o Jagtar Singh residents of Mukam had gone to the house of Mistry Sukhdayal Singh R/o Chamiyari for taking opinion about construction of house and after parking their motorcycle in the gali, they were talking to the Mistry by sitting inside the house when noise of abusing was heard from the gali outside that, "Bahar niklo...tuhanu Gurdwara Bauli Sahib di paili vahan lai madad karan da maza chakhaunde haan." On going above the roof they had seen that Pargat Singh on the gate of his house Manpreet Singh and along with his children, nephews



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armed with weapons was abusing. While their seeing they had taken his motorcycle inside their house, on which he had told the whole of this matter to Gurvinder Singh. Then Gurvinder Singh had talked to Inspector Ravinder Pal Singh, SHO P.S. Ajnala and had apprized him about this incident and after apprising him both of them had left for Village Chamiyari. On their reaching there, SHO P.S. Ajnala had also reached the spot along with Police party. On seeing the police party Pargat Singh, Manpreet Singh etc. had closed the door of their house, and had sped away from their house along with weapons. On which SHO P.S. Ajnala in their presence had taken out Kuldeep Singh, Harvinder Singh, Simran Singh and had got returned motorcycle from Pargat Singh party. Due to which reason a tension had got created between both of these parties. On getting information about which, the second party armed with weapons had came to Chamiyari. Bullets were exchanged between both the parties between the DVR's time 4-07 PM to 4-10 PM, where Kuldeep Singh alias Kaka and Harsimran Singh had got injured for being hit with bullets, who were taken by their accomplices from Village Chamiyari to Amritsar, for treatment.

After this incident servant Jagtar Singh gets injured in the haveli of Pargat Singh S/o Buta Singh R/o Chamiyari for being hit with bullet, at that time the cameras installed in Pargat Singh's house were also off. As per the report obtained from Electricity Board, there was continuous unobstructed electricity supply at the time of the incident. Around 40/45 minutes after Pargat Singh's servant Jagtar Singh had got injured, Inspector Ravinder Pal Singh, SHO



P.S. Ajnala had reached the scene of crime along with force, upto that time the servant had kept on lying there only in injured condition, who, despite of presence of Scorpio vehicle in the house also, is not taken by Pargat Singh for treatment, and on the repeated insistence of SHO P.S. Ajnala and the Police only he takes him to Civil Hospital, Ajnala, for treatment, where Jagtar Singh dies and in this connection on Pargat Singh's statement Case No. 22 dated 28-01-2021 U/S 302, 307, 452, 323, 429, 148, 149 IPC 25, 27-54-59 Arms Act P.S. Ajnala has been registered.

Proposals

- i. A written ballistic report may be obtained from the doctor with regard to the bullet which had hit deceased Jagtar Singh that from what distance and with which weapon the bullet has been fired.*
- ii. Medical opinion may be obtained with regard to the pellets which had hit Pargat Singh's daughter in law Sachinpreet Kaur.*
- iii. The parchat of deceased Jagtar Singh may be sent to FSL and report may be obtained from ballistic expert about Distance of fire and nature of weapon.*
- iv. The report with regard to the blood sample taken from the gali from the scene of crime may be obtained from doctor.*
- v. The Police had taken into custody 02 khol cartridge of 12 bore and 01 cartridge Miss from near the body of servant Jagtar Singh from Pargat Singh's haveli. These khols may be got matched during investigation with Pargat Singh party's 03 DBBL licensed rifles and*



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second party's licensed weapons from Forensic Science Laboratory and report may be obtained.

vi. The fight between Pargat Singh, Mandeep Singh sons of Buta Singh residents of Chamiyari and second party Kuldeep Singh alias Kaka S/o Salwinder Singh, Harsimran Singh S/o Jagtar Singh residents of Mukam had openly taken place in the gali. The case which Pargat Singh had got registered with regard to the murder of his servant Jagtar Singh, appears to be suspicious.

In the above detailed circumstances from my so far verification/investigation it has been found that Case No. 22 dated 28-01-2021 U/S 302, 307, 452, 323, 429, 148, 149 IPC 25, 27-54-59 Arms Act P.S. Ajnala which complainant in the case Pargat Singh S/o Buta Singh has got registered in connection with murder of his servant Jagtar Singh against Kuldeep Singh alias Kaka S/o Salwinder Singh, Harsimran Singh alias Noni S/o Jagtar Singh residents of Mukam etc., appears to be suspicious. In this case Harpreet Singh S/o Balram Singh, Gagandeep Singh S/o Sukhdev Singh, Lakha Singh alias Kalu, Mukhtar Singh alias Mukha sons of Savinder Singh, Mandeep Singh alias Manu sons of Guljar Singh alias Ghuk, either they or their family members are members of Gurdwara Bauli Sahib, Chamiyari's registered committee, their names had been got written for taking illegitimate possession of the land of Gurdwara Bauli Sahib, Chamiyari. From secret and declared enquiry their involvement does not comes to light and neither any role of Gurvinder Singh S/o Mukhtar Singh R/o Mukam in the



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incident has come to light. The statement got written by the complainant Pargat Singh with regard to the murder of Jagtar Singh given at the time of getting registered case, video of the scene of crime, statements of the witnesses does not match with each other. On seeing the video of the scene of crime the intention of fight of Pargat Singh, Manpreet Singh sons of Buta Singh party is clearly visible. No outer person is seen entering in their haveli/house after climbing the wall. The DVR of the CCTV cameras installed in the house/haveli of Pargat Singh at time 4-16 PM 12 second, at which time Manpreet Singh's wife Sukhjinder Kaur switches off the cameras, at that time Manpreet Singh is seen in the house holding weapon and at some distance the servant Jagtar Singh is standing in the haveli. Sometime after that only Jagtar Singh servant is murdered. On getting information about which, Inspector Ravinder Pal Singh, SHO P.S. Ajnala along with police party reaches the scene of crime.

So far as cross case report No. 20 dated 30.01.2021 U/s 307, 457, 379, 506, 336, 148, 149 IPC 25-27/54/59 Arms Act P.S. Ajnala is concerned, during my investigation, the bullets etc. which had been exchanged between both of these parties, that, as per the time of the DVR is the incident from 04:07 PM to 04:10 PM outside in the gali, where Kuldeep Singh alias Kaka and Harsimranjit Singh alias Noni had got injured, in which connection, on the statement of Jaskaran Singh, in cross case, the incident had been made of Mohan Pal Singh's haveli, whereas it has come to light that the incident had taken place outside in the gali, from where the Investigating Officer Inspector Ravinder Pal Singh, SHO P.S.



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Ajnala had recovered the khol and the blood sample. Therefore, committing of offence U/s 452 IPC is not verified in the cross case.

In these circumstances the statement given by Pargat Singh at the time of getting registered case appears to be suspicious. Sometime after the fight that had taken place with the second party Kuldeep Singh alias Kaka in the gali, Mandeep Singh armed with rifle along with his accomplices in the house and at a distance of few steps their servant Jagtar Singh is standing, is clearly visible in the video recording, after few seconds the cameras gets off. Jagtar Singh servant gets injured for being hit with bullet in suspicious circumstances in the haveli. On getting information about firing, the Police party reached the spot after around 40/45 minutes, till that time the injured is not taken for treatment despite having vehicle in the house, who, on repeated insistence of Police party, is taken to Civil Hospital, Ajnala, where he died. For bringing out the truth in this regard, Narco Analysis/Lie Detector Test of Pargat Singh and Mandeep Singh sons of Buta Singh is required to be conducted in scientific manner. If found appropriate then SHO P.S. Ajnala may be appropriately ordered to undertake further proceedings on the basis of the report and the proposals given during the enquiry.

The report is submitted for approval.

*Sd/- Gaurav _ _ _
Superintendent of Police,
Investigation, Amritsar-Rural*

*Approved
SHO Ajnala for further n/a
Sd/-*

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SSP/ASR-Rural”

5. As per the aforementioned report, the SHO, Ajnala was given directions for conducting steps towards further investigation. On 05.10.2021, the SHO Ajnala filed a charge-sheet against Pargat Singh (in custody since 13.07.2021), Rajinder Singh, Vishaldeep Singh, Sunny Masih and Manpreet Singh. Against Agyapal Singh, Jatinder Singh and Bikramjeet Singh the challan was not filed. On 14.01.2022, SHO, Ajnala after obtaining approval from the DSP, Ajnala as well as SSP, Amritsar (Rural) declared Jatinder Singh and Bikramjit Singh as innocent. On 29.07.2023, the SHO vide his report sent a recommendation to add Sections 302, 193, 194 and 120-B IPC in DDR No.20 dated 30.01.2021 and further recommended to nominate five more persons namely, Karamjeet Singh (petitioner), Sachinpreet Kaur, Sukhjinder Kaur, Gursevak Singh and Sukhchain Singh as accused. In the same report, Harpreet Singh S/o Balram Singh, Gagandeep Singh S/o Sukhdev Singh, Sukhdial Singh S/o Jasbir Singh, Kalu S/o Toti, Mukha S/o Toti, Maanu S/o Ghuk, Gurwinder Singh S/o Mukhtiar Singh, Happy S/o Balkar Singh, Harsimran Singh S/o Jagtar Singh and Kaka S/o Kulwinder Singh were recommended to be declared innocent.

6. SSP, Amritsar (Rural) approved the report dated 29.07.2023 (Annexure R2/1) given by the SHO, Ajnala. The relevant extract of the report of the SHO, Ajnala is as under:-



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From the verification of investigation conducted by me so far, medical report obtained, Ballastic report received from FSL Mohali and from perusal of video of DVR of CCTV cameras installed in house/haveli of Pargat Singh, it has been found that the intention of Pargat Singh, Manpreet Singh sons of Buta Singh party of picking up quarrel is clearly visible. No outside person is seen while entering in their haveli/house by scaling wall and as per D.V.R's time 04.07 PM 01 second, Rajinder Singh son of Pargat Singh is seen coming out of his house by taking rifle and at 04.07 03 second, Sukhjinder Kaur wife of Manpreet Sing is seen coming outside from her house by taking rifle from inside. At 04.13 PM 30 second, Manpreet Singh party is seen going out of the small gate at backside of their home after quarrel and consulting by going to house of his brother Karamjit Singh son of Buta Singh and after few minutes Manpreet Singh armed with weapons along with his associates are seen entering in their home through back small gate. At D.V.R's time 4.16 PM 12 second of CCTV cameras installed in house/haveli of Pargat Singh, when Manpreet Singh's wife Sukhjinder Kaur switches off the camera, at that time Manpreet Singh is seen armed with weapon in house and at some distance, servant Jagtar Singh is standing absolutely fine and after few seconds only, cameras are switched off. After the closing of recording of cameras only, Jagtar Singh servant dies in haveli due to sustaining fire shot.

During investigation, in the main case under section 302 IPC, no evidence came to the light against accused. The statement got recorded by complainant Pargat Singh is not proved true because on 28.01.2021 had a quarrel with complainant in cross case Jaskaran Singh party on 28.01.2021 and during this quarrel, Pargat Singh party had fired shots at Kuldeep Singh @ Kaka son



of Salwinder Singh, Harsimran Singh @ Noni residents of Mukam, due to which Pargat Singh party thought that Kuldeep Singh @ Kaka aforesaid has died due to fire shot and due to this reason, Pargat Singh and his accomplices, with their common intention, in order to make an equivalent case, themselves fired shot at their servant Jagtar Singh son of Hazuri resident of village Teja Veela Police Station Dera Baba Nanak District Gurdaspur and murdered him and Pargat Singh under a plan showed pellet injuries on person of his daughter-in-law Sachinpreet Kaur from some expert and by firing shot to his pet dog, concocted a false incident and has got registered case FIR against Harpreet Singh party. During investigation, it has come to the light that cross case relating to above said case FIR has been registered on statement of complainant Jaskaran Singh son of Balbir Singh resident of Mukam Police Station Ajnala District Amritsar, which has been registered absolutely on correct facts.

From the verification of investigation conducted so far and above mentioned circumstances, it has been found that statement got recorded by cross case's complainant Jaskaran Singh son of Balbir Singh resident of Mukam is verified to be correct and it has been found that Pargat Singh party itself murdered deceased Jagtar Singh aforesaid.

From the verification of investigation conducted by me and perusal of video of CCTV cameras, the following facts have come to the light:-

1. On 28.01.2021 in camera No. 02 at 01:17 P.M, Pargat Singh son of Buta Singh resident of Chamiari and his son Agyapal Singh are seen going outside through big gate of haveli by taking dangs and sotas.



In camera No. 02 at about 01.20 PM, Manpreet Singh son of Buta Singh (wearing black kurta-pyjama) along with Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler (black jacket), Gursewak Singh son of Panju resident of Chamiari (supporting pink color turban) are seen from which it becomes clear that both of them had come on their calling with an intention of quarrel.

2. At 03.29 PM about 12 police officials, including SI Jugraj Singh, ASI Gurbaksh Singh etc. are seen conducting search of house of Pargat Singh for taking motor cycle and on not finding motor cycle, are seen going back at 03.41 PM.

3. At 04.07 PM, from residential rooms of Pargat Singh, Sukhjinder Kaur wife of Manpreet Singh (wearing red suit) taking 12 bore DBBL rifle and Rajinder Singh son of Pargat Singh armed with 12 bore DBBL rifle (wearing white shirt and sweater) are seen coming out of their residential house hurriedly and in camera No. 02, Rajinder Singh is seen running towards gate while holding rifle and Agyapal Singh son of Pargat Singh is seen going towards gate hurriedly after taking 12 bore rifle DBBL from Sukhjinder Kaur.

4. On 04.10.27 PM in camera No. 02, dust is seen lying due to fire shot in courtyard of cattle shed, due to which cattle and dog are seen frightened. At that time, in camera No. 02, Pargat Singh about 10/12 members are seen in haveli and courtyard of house and main gate of haveli is closed. No member of opposite party Harpreet Singh party is present inside the house due to closure of gate of house of Pargat Singh.

5. At 04.13 PM in camera No. 2, all persons enter inside haveli while running from the main gate of haveli and Rajinder Singh is seen covering the rifle with cloth. Firstly all persons try to run



through small gate near verandah of cattle in haveli but then all persons by not going through that gate, run towards the gate of small street, which leads towards house of Karamjit Singh son of Buta Singh resident of Chamiari.

6. *At 04.13.38 PM in camera No. 01, Manpreet Singh son of Buta Singh resident of Chamiari along with Agyapal Singh, Rajinder Singh sons of Pargat Singh, Jatinder Singh @ Chan (wearing red shirt) son of Karamjit Singh, Salamat Masih @ Sunny Masih son of Dharma Masih, Gursewak Singh son of Harinder Singh @Panju residents of Chamiari, Sukhchain Singh son of Bhola Singh resident of Dhariwal along with 02 unknown persons, after taking weapons and dangs/sotas run towards the street outside through small gate in courtyard of the house, which leads towards the house of their brother Karamjit Singh.*

7. *At 04.13.47 second in Camera No. 01, Sukhjinder Kaur wife of Manpreet Singh resident of Chamiari, after peeping out her face from backside small gate, looks in the street and closes the gate and at 04.15.20 second, Sukhjinder Kaur again opens that small gate.*

8. *At 04.16.03 second, Manpreet Singh armed with 12 bore rifle DBBL, behind him Pargat Singh while talking with someone by putting mobile phone on his right ear, are seen and behind Pargat Singh, Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler, is seen entering in his house through small gate from house of Karamjit Singh. At that time, deceased Jagtar Singh is seen standing in haveli in camera No. 02 in perfect condition.*

9. *At 04.16.13 second, in camera No. 04, which is installed in lobby of house, it is seen that Sukhjinder Kaur wife of Manpreet Singh while standing in lobby, puts her arm inside the room. At that time, the recording of all cameras is closed.*



10. At 04.16.13 second in camera No. 03, Manpreet Singh (wearing black kurta pyjama) is standing with rifle. Besides him, Pargat Singh son of Buta Singh and Sachinpreet Kaur wife of Agyapal Singh residents of Chamiari, Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler are seen standing and at some distance, servant Jagtar Singh is seen standing in haveli in perfect condition. At this time, all cameras are closed.

11. On seeing the whole video, no outside person is seen entering in house/haveli of complainant in FIR Pargat Singh son of Buta Singh resident of Chamiari.

12. In video, Sachinpreet Kaur wife of Agyapal Singh is seen standing in perfect condition with her husband Agyapal Singh and in whole video, no injury of any type is seen on her person. In the statement got recorded by Pargat Singh, he has mentioned that his daughter-in-law suffered pellet injuries. In the opinion obtained from the doctor, the doctor has written in his report, "There is alleged history of pellet injury, But according to injuries mentioned in MLR, it can be due to blunt weapon."

Detail regarding involvement (reasons) of persons to be named in the case in occurrence.

1. Pargat Singh son of Buta Singh resident of Chamiari (aged about 51 years):-

From the perusal of footage of C.C.T.V cameras, it has been found that Pargat Singh started the quarrel. Pargat Singh is very clever person. The mastermind of whole incident is Pargat Singh. Pargat Singh party had fired shots at Kuldeep Singh @ Kaka son of Salwinder Singh, Harsimran Singh @ Noni son of Balkar Singh residents of Mukam, due to which Pargat Singh party thought that Kuldeep Singh @ Kaka aforesaid has died due to sustaining fire shot and due to this reason, Pargat Singh and his accomplices with their



common intention to make a case of an equal offence, fired shot at their servant Jagtar Singh son of Hazuri resident of village Teja Veela Police Station Dera Baba Nanak District Gurdaspur and murdered him.

2. Manpreet Singh son of Buta Singh resident of Chamiari (aged about 38 years):- *He is a person of criminal mentality. A number of criminal cases are registered against him earlier also. Manpreet Singh is on bail in case FIR No. 154/14 under section 302 IPC, Police Station Ajnala. After quarrel, when Manpreet Singh armed with weapon and along with his accomplices, go towards the house of his brother Karamjit Singh through back side gate of house and after staying at house of Karamjit Singh for short time, enter in the house along with his accomplices and weapon through that small gate and at short distance, servant Jagtar Singh is seen standing in perfect condition and at that time, the recording of all cameras is closed and after closing of recording of cameras of C.C.T.V, the murder of Jagtar Singh takes place.*

3. Karamjit Singh son of Buta Singh resident of Chamiari (aged about 44 years):- *Karamjit Singh aforesaid, who is real brother of Pargat Singh and Manpreet Singh, after quarrel, when Manpreet Singh etc. go towards his house and after making consultations with him, murder servant Jagtar Singh by entering in the house. In order to test the empty cartridges of 12 bore recovered from near the dead body of deceased Jagtar Singh, Karamjit Singh was asked to deposit his licensed rifle 12 bore DBBL but Karamjit Singh did not deposit his licensed rifle and kept on putting off. From this, it is clear that Karamjit Singh is involved in murder of deceased Jagtar Singh.*

4. Agyapal Singh son of Pargat Singh resident of Chamiari (aged about 24 years):- *In video of CTV cameras, Agyapal Singh (wearing white shirt) is seen absolutely ready with an intention to pick up*



quarrel and after taking rifle 12 bore DBBL from his aunt Sukhjinder Kaur wife of Manpreet Singh resident of Chamiari, is seen going towards the outer gate hurriedly.

5. Rajinder Singh son of Pargat Singh resident of Chamiari (aged about 23 years):- In video of CCTV, Rajinder Singh (wearing white shirt and sweater) is seen running hurriedly towards the gate by taking 12 bore DBBL rifle from his residential room with an intention to quarrel and after quarrel, when he enters in the house, he is seen covering the rifle in his hand with a cloth and is seen going towards the house of Karamjit Singh with Manpreet Singh etc. through back gate of the house.

6. Jatinder Singh @ Chan son of Karamjit Singh resident of Chamiari (aged about 25 years):- Jatinder Singh aforesaid (wearing red shirt) is seen in the occurrence with an intention to pick up quarrel. After quarrel, firstly he enters in the house from back small gate and later is seen going towards his house through small gate along with Manpreet Singh etc.

7. Sukhjinder Kaur wife of Manpreet Singh resident of Chamiari (aged about 36 years):- In CCTV video, Sukhjinder Kaur after taking out DBBL rifle from her residential room, hand over it to Agyapal Singh son of Pargat Singh resident of Chamiari for quarrel and switches off the cameras installed at the house under a planned conspiracy.

8. Sachinpreet Kaur wife of Agyapal Singh resident of Chamiari (aged about 23-24 years):- From the perusal of video of CCTV cameras, Sachinpreet Kaur is seen in perfect condition in her house at the time of occurrence and no injury or wound is seen on her person. Sachinpreet Kaur in her MLR has told the doctor about sustaining pellets, whereas in opinion obtained from the doctor, the injury on person of Sachinpreet Kaur is mentioned as from blunt



weapon. This shows that Sachinpreet Kaur has obtained false medical result by showing false pellet injuries.

9. Sunny Masih @ Salamat Masih son of Dharma Masih resident of Chamiari (aged about 35 years):- *In video of CCTV, Sunny Masih aforesaid (muffler tied on his head) is seen in CCTV cameras in house of Pargat Singh with an intention to pick up quarrel and after quarreling with Harpreet Singh's party, is seen going towards house of Karamjit Singh son of Buta Singh resident of Chamiari through small gate along with Manpreet Singh etc.*

10. Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler (aged about 44 years):- *Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler is also seen entering in house of Pargat Singh on being called by Pargat Singh party for help. When Manpreet Singh etc. run towards the house of Karamjit Singh through small gate after quarrel and after some time, enters in house of Pargat Singh from house of Karamjit Singh through small street. At that time, Sukhchain Singh aforesaid also enters in the house with Manpreet Singh etc and at some distance, servant Jagtar Singh is seen standing in perfect condition and after some time, Sukhjinder Kaur switches off the cameras due to which the recording of CCTV cameras is closed and after the closing of camera, the murder of Jagtar Singh takes place. As above said person was present at the spot, therefore, he has complete knowledge about the incident of murder of Jagtar Singh.*

11. Gursewak Singh son of Harinder Singh @ Panju resident of Chamiari (aged about 21 years):- *From the perusal of video of CCTV cameras, it has been found that Gursewak Singh aforesaid (pink turban tied) enters in house with Manpreet Singh at 01.20 P.M on being called by Pargat Singh and for their help with an intention to pick up quarrel and right from the start of quarrel till Manpreet*



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Singh party run through small gate after quarrel, he is seen with Manpreet Singh party in occurrence in CCTV cameras

From the verification of investigation, it comes to the light that offence under sections 302, 193, 194, 120-B, IPC are liable to be added in cross case against complainant in main case and accused of cross case 1. Pargat Singh, 2. Manpreet Singh sons of Buta Singh, 3. Agyapal Singh, 4. Rajinder Singh sons of Pargat Singh, 5. Jatinder Singh @ Chann son of Karamjit Singh, 6. Sunny Masih @ Salamat Masih son of Dharma Masih residents of Chamiari for committing murder of deceased Jagtar Singh with their common intention and after naming 1. Karamjit Singh son of Buta Singh, 2. Sukhjinder Kaur wife of Manpreet Singh, 03. Sachinpreet Kaur wife of Agyapal Singh, 4. Gursewak Singh son of Harinder Singh @ Panju residents of Chamiari, 5. Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler along with 02 unknown persons as accused in the above said case, investigation is required to be conducted because despite having knowledge about the murder of deceased servant Jagtar Singh, the above said persons kept concealed the real facts of murder of Jagtar Singh being in connivance.

Accused named in his statement by Pargat Singh party in main case namely 1. Harpreet Singh son of Balram Singh, 2. Gagandeep Singh son of Sukhdev Singh, 3. Sukhdial Singh son of Jasbir Singh, 4. Kalu son of Toti, 5. Mukha son of Toti, 6. Maanu son of Ghuk residents of Chamiari, 7. Gurwinder Singh son of Mukhtiar Singh, 8. Happy son of Balkar Singh, 9. Harsimran Singh son of Jagtar Singh, 10. Kaka son of Balwinder Singh residents of Mukam Tehsil Ajnala District Amritsar are liable to be declared innocent in the present case.



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If approved, it be ordered to name 1. Pargat Singh, 2. Manpreet Singh, 3. Karamjit Singh sons of Buta Singh, 4. Agyapal Singh, 5. Rajinder Singh sons of Pargat Singh, 6. Jatinder Singh @ Chann son of Karamjit Singh, 7. Sukhjinder Kaur wife of Manpreet Singh, 08. Sachinpreet Kaur wife of Agyapal Singh, 09. Sunny Masih @Salamat Masih son of Dharma Masih residents of Chamiari, 10. Gursewak Singh son of Harinder Singh @ Panju residents of Chamiari, 11. Sukhchain Singh son of Bhola Singh resident of Dhariwal Kaler along with 02 unknown persons as accused in murder of deceased Jagtar Singh aforesaid, to add sections 302, 193, 194, 120-B, IPC in cross case registered in the case and to declare accused mentioned in main case (section 302 IPC) got registered by Pargat Singh namely 1. Harpreet Singh son of Balram Singh, 2. Gagandeep Singh son of Sukhdev Singh, 3. Sukhdial Singh son of Jasbir Singh, 4. Kalu son of Toti, 5. Mukha son of Toti, 6. Maanu son of Ghuk residents of Chamiari, 7. Gurwinder Singh son of Mukhtiar Singh, 8. Happy son of Balkar Singh, 9. Harsimran Singh son of Jagtar Singh, 10. Kaka son of Balwinder Singh residents of Mukam Tehsil Ajnala District Amritsar.

Report is submitted for appropriate orders.

Sd/- Illegible,

Station House Officer, Police

Station Ajnala Date: 29/7/23.

7. Thereafter, DDR No.35 dated 18.09.2023 (Annexure P-3) was registered in which the following persons were named as accused:-

- 1. Pargat Singh S/o Buta Singh*
- 2. Manpreet Singh S/o Buta Singh*
- 3. Karamjit Singh S/o Buta Singh*
- 4. Agyapal Singh S/o Pargat Singh*



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5. *Rajinder Singh S/o Pargat Singh*
6. *Jatinder Singh @ Chan S/o Karamjit Singh*
7. *Sukhjinder Kaur W/o Manpreet Singh*
8. *Sachinpreet Kaur W/o Agyapal Singh*
9. *Sunny Masih @ Salamat Masih S/o Dharam Masih*
10. *Gursewak Singh S/o Harinder Singh @ Panju*
11. *Sukhchain Singh S/o Bhola Singh*

8. The learned counsel for the petitioner vehemently contends that the petitioner was neither an accused nor a prosecution witness of the occurrence. Statements of various witnesses including Rupinder Kaur W/o Sukhdial Singh (Annexure P8) and Jagar Singh (Annexure P-12) were recorded in May, 2021 wherein the petitioner was not named. He came to be named on suspicion in the report of the S.P. (Rural) Amritsar dated 21.09.2021 (Annexure P-7) when a suspicion was raised about FIR No.22 dated 28.01.2021. Subsequently, in the report of the SHO, P.S. Ajnala dated 29.07.2023 (Annexure R-2/1), the petitioner was nominated as an accused for not handing over his weapon to the Investigating Agency. In fact, the petitioner was not seen in the CCTV footage of the occurrence. One Harpreet Singh who was initially an accused in FIR No.22 dated 28.01.2021 filed a direction petition bearing CRM-M-15772-2021 seeking a fair investigation. Pargat Singh filed CRM-M-34512-2021 seeking grant of regular bail. Both these petitions were disposed of by this Court vide a common order dated 21.08.2023 (Annexure P-11). Despite the fact that Harpreet Singh was only

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seeking a fair investigation and was not aware of the presence or role of the petitioner till the order dated 21.08.2023, subsequently became an eye-witness of the present occurrence. His statement was recorded on 20.09.2023 under Section 161 Cr.P.C. (Annexure P-9) wherein the presence of the petitioner was shown armed at the spot. On similar lines the statements of certain other prosecution witnesses were recorded but only after 21.08.2023. Thus, up until 18.09.2023 when DDR No.35 dated 18.09.2023 (Annexure P-3) was recorded, the petitioner was not an accused. Subsequently, an SIT was constituted on 01.09.2024. However, meanwhile, proceedings to declare the petitioner a proclaimed offender were going on and warrants of his arrest were issued first on 16.12.2023. Subsequently, he was declared a proclaimed offender on 20.07.2024, an order which he had challenged vide CRM-M-37012-2024 before this Court. Be that as it may, his petition seeking grant of anticipatory bail stood dismissed by the Court of Addl. Sessions Judge, Amritsar vide order dated 29.04.2024. Since the petitioner was nominated an accused only on 18.09.2023, no role had been attributed to him in the occurrence and he was not seen in the CCTV footage, he was entitled to the concession of pre-arrest bail particularly when he had separately challenged the order dated 20.07.2024 vide which he had been declared a proclaimed offender. Even otherwise, the petitioner was ready and willing to join

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investigation and get recovered his weapon and therefore, his custodial interrogation was not required.

9. On the other hand, the learned State counsel along with the learned counsel for the complainant while referring to the replies dated 24.07.2024 (already filed and is on record) and 07.11.2024 (filed in the Court today is taken on record) contend that the arguments raised by the petitioner are baseless. In fact, the petitioner-Karamjit Singh was the real brother of Pargat Singh (in custody) and Manpreet Singh who had actually shot the deceased. Both Pargat Singh and Manpreet Singh had multiple cases registered against them because of which no one was ready to depose against them. Karamjit Singh had admitted his presence at the place of occurrence vide complaint dated 01.02.2021 (Annexure P-5) referring to the fact that Jagtar Singh their servant had been murdered by the opposite party. The petitioner was the parokar of the entire case and was thus aware of the proceedings. It was a case where all the accused who were closely related with each in conspiracy, with an intent to implicate the opposite party had shot dead their servant and did not allow the injured servant to be taken to hospital so that he would succumb to his injury. At the time of the occurrence, the accused switched off the CCTV cameras of their own house so that there would be no evidence of their act. As per police investigation, the accused persons wanted to take over the Gurdwara Shri Bauli Sahib, Village



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Chamiyari and therefore, their common intention to implicate the opposite party in the murder of their own servant was apparent. Jatinder Singh @ Chan Singh the petitioner was also an accused along with Pargat Singh and Manpreet Singh, the two real brother of the petitioner. During the course of investigation, the petitioner did not hand over his weapon thereby stonewalling the investigation. Further, he and his co-accused had been declared proclaimed offenders and therefore in view of the judgments of the Hon'ble Supreme Court in **Srikant Upadhyay & Ors. Vs. State of Bihar & Anr., 2024 AIR Supreme Court 1600**, **Abhishek Vs. State of Maharashtra & Ors., 2022 AIR Supreme Court 2488** and **Lavesh Vs. State (NCT of Delhi), 2012(4) RCR(Criminal) 240**, he was not entitled to the concession of pre-arrest bail.

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

11. The Hon'ble Supreme Court in the case of **Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for



custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the***



accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

12. Coming back to the facts of the present case, as per his own admission, the petitioner was present at the residence when the alleged occurrence took place in which the accused persons murdered their own servant Jagtar Singh with a view to implicate the opposite party. It has been *prima facie* established that Manpreet Singh, the brother of the petitioner shot dead the said servant in conspiracy with Pargat Singh, petitioner and other accused including Jatinder Singh S/o of the petitioner. The CCTV cameras of the house were switched off at the relevant time. However, the CCTV footage of the period prior to it being switched off as established the manner in which the occurrence took place. The motive lay with the petitioner and all the other accused to take over the Gurdwara Shri Bauli Sahib, Village Chamiyari and on being opposed, they murdered their own servant to implicate the opposite party some of whom were in the management of the Gurdwara. He refused to hand over his weapon for forensic analysis thereby stone-walling the investigation. In fact, no weapon has been recovered from any of the accused till date 10 of whom are absconding and have been declared proclaimed offenders.



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13. The Hon'ble Supreme Court in **Srikant Upadhyay** (supra), held as under:-

“24. We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

(Emphasis supplied)

14. The Hon'ble Supreme Court in **Abhishek** (supra), held as under:-

“21. As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it

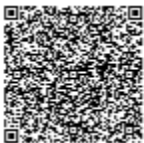


*clear that any person, who is declared as an 'absconder' and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence. By way of reference, we may observe that in relation to the indulgence of pre-arrest bail in terms of section 438 CrPC, 1973 this Court has repeatedly said that when an accused is absconding and is declared as proclaimed offender, there is no question of giving him the benefit of section 438 CrPC, 1973. For example, **Prem Shankar Prasad v. State of Bihar and Anr.: (2021) SCC OnLine SC 955**. What has been observed and said in relation to section 438 CrPC, 1973 applies with more vigour to the extraordinary jurisdiction of this Court under Article 136 of the Constitution of India. The submissions on behalf of the appellant for consideration of his case because of application of stringent provisions impinging his fundamental rights does not take away the impact of the blameworthy conduct of the appellant. Any claim towards fundamental rights also cannot be justifiably made without the person concerned himself adhering to and submitting to the process of law.*

(Emphasis supplied)

15. The Hon'ble Supreme Court in **Lavesh** (supra), it was held as under:-

"10. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and declared as "absconder". Normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is



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absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code is not entitled the relief of anticipatory bail.”
(emphasis supplied)

16. In view of the aforementioned facts and circumstances, the serious nature of the allegations levelled against the petitioner and his co-accused and the offence being *prima facie* established from the material on record, no case for the grant of anticipatory bail is made out and therefore, the present petition stand dismissed.

(JASJIT SINGH BEDI)
JUDGE

21.11.2024

JITESH

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