

2024.PHHC.130953



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31778-2024 (O&M)
Date of decision: 01.10.2024

Budh Singh Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Chaitanya Rai Vashishth, Advocate, for the petitioner.

Mr. Rajinder Singh Bhatta, DAG, Punjab.

None for the applicant-respondent No.2.

GURBIR SINGH, J.

CRM-34165-2024

Prayer in this application filed under Section 482 Cr.P.C. moved by the injured-eyewitness, namely, Balwinder Singh Brar for impleading him as respondent No.2.

For the reasons mentioned in the application, same is allowed and the applicant-Balwinder Singh Brar is ordered to be impleaded as respondent No.2 in the petition.

The amended memo of parties already filed, is taken on record.

CRM-M-31778-2024

1. This petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.124, dated 17.08.2021,

registered under Sections 302, 307, 341, 427, 506, 148, 149, 120-B of IPC, 1860 and Sections 25 and 27 of Arms Act, 1959 at Police Station Sadar Kotkapura, District Faridkot.

2. The aforesaid FIR was registered on the statement of complainant Surinder Kaur, mother of the deceased-Navjot Singh, with the following allegations:

"...that her sister-in-law (husband's sister) Gurjinder Kaur was married to Balwinder Singh son of Hakam Singh R/o V. Rajeana around 37-38 years ago. In the year 1996 her sister-in-law Gurjinder Kaur had passed away. Their relative Balwinder Singh performed his second marriage with Iqbal Kaur-accused. But after some time, a dispute arose between her brother-in-law Balwinder Singh and his wife Iqbal Kaur in connection with the property and cash and for last 10 years her brother-in-law Balwinder Singh has been residing with them and they were helping Balwinder Singh to pursue complaints against Iqbal Kaur. Said Iqbal Kaur was backed by her brother-in-law (Jija) Anandeep Singh alias Roma. Said Iqbal Kaur had illegally occupied the house of Nandoiya (Balwinder Singh) and a complaint, in this connection, was pending with Police Station NRI, Moga which was fixed for enquiry on 17-08-2021. Therefore in the morning, she along with her son Navjot Singh alias Navi, her brother in law Balwinder Singh and one of their relative Mandeep Singh alias Babbu son of Gurmeet Singh R/o Malout Road, Muktsar were proceedings toward Moga on their Car No.DL-10CF-0120 Ford Figo and when they just crossed Village Wara Draka heading towards Kotkapura, at around 11-00 AM one Scorpio Black Colour, two vehicles of Thar, one Innova and one

another vehicle tried to encircle their car and her son who was driving their car, took a turn on link road and the offending vehicles did not cross them but they were hitting their car from back and also shot fired with an intention to kill them. They via Village Wander Jatana again reached at Kotkapura-Muktsar main road where the offending vehicles surrounded their car. Anantdeep Singh alias Roma armed with Rod and 15-20 other unidentified persons armed with hockeys, baseballs and rods emerged from respective vehicles and assaulted her son Navjot Singh and when her brother-in-law Balwinder Singh and relative Mandeep Singh tried to rescue her son from the clutches of accused, they were also beaten up by assailants and caused them injuries. All the injured were removed to Civil Hospital, Kotkapura for treatment but due to serious injuries of her son Navjot Singh, he was referred to GGS Medical College and Hospital, Faridkot where during treatment, Navjot Singh succumbed to injuries. Her son Navjot Singh has been killed by said Anantdeep Singh alias Roma aforesaid with his associates at the instance of Iqbal Kaur and Sukhi residents of V. Rajeana...."

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present FIR. Petitioner has not been named in the FIR. In fact, it has been registered against three persons, namely, Anantdeep Singh, Iqbal Kaur and Sukhi. It is on the basis of disclosure statement of Balwinder Singh, petitioner has been nominated in the present FIR with the allegations that he conducted recce. Said Balwinder Singh is himself declared as a proclaimed offender and has fled away to Australia. Petitioner was not present at the spot at the time of

occurrence. The main witnesses i.e. complainant and Mandeep Singh, eyewitness, did not support the case of prosecution. Earlier, the petitioner was declared proclaimed offender vide order dated 16.10.2023 and thereafter, he surrendered and is in custody for the last about seven months. The co accused Iqbal Kaur and Sukhvir Singh @ Sukhi, Anantdeep Singh @ Roma, Gurmukh Singh, Deedar Singh, Arbat Singh @ Arbut, Yadwinder Singh @ Baba @ Buta, Gurpreet Singh have already been granted the concession of regular bail by this Court.

3.1 Learned counsel for the petitioner has further argued that proceedings of trial Court has also been ordered to be stayed by a coordinate Bench of this Court vide order dated 13.10.2023 passed in CRM-M-51965 of 2023, which would mean that the petitioner would be subjected to an indefinite incarceration in case he is not granted bail at this stage.

4. Pursuant to order dated 11.07.2024, status report by way of an affidavit dated 28.09.2024 of Jatinder Singh, PPS, Deputy Superintendent of Police, Kotkapura, District Faridkot, on behalf of respondent-State, has been filed in Court today, which is taken on record. On the basis of said report, learned State counsel submits that there were total 26 injuries on the dead body of Navjot Singh and the cause of death, as opined by the concerned doctor, is “hemorrhage and shock as a result of injuries which are collectively sufficient to cause death in ordinary course of nature.” It is on the basis of supplementary statement of Balwinder Singh, petitioner was

nominated in the present FIR. Vide order dated 16.10.2023, petitioner was declared proclaimed offender. He had already surrendered on 27.03.2024 and supplementary challan qua the petitioner has been presented in the Court on 26.04.2024. Though learned State counsel has opposed the bail to the petitioner considering the fact that he was involved in the commission of heinous crime of murder, however, he has fairly submitted that the petitioner is not involved in any other criminal case, and has also not disputed the fact that co-accused have already been released on regular bail.

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

6. The complainant Surinder Kaur, who was examined as PW10, resiled from her earlier statement during her examination-in-chief. The said examination-in-chief is reproduced as under:

“Statement of Surinder Kaur, aged about 72 years, wife of Gurdarshan Singh, resident of Barkandi Road, Sri Muktsar Sahib.

Stated that I had two sons namely Gaganjot Singh and Novjot Singh. My elder son Gaganjot Singh died due to some disease about 8 years back. My younger son Navjot Singh was doing agriculture work.

On 17.08.2021, I along with my son Navjot Singh and Mandeep Singh our relative were going on a vehicle from Sri Muktsar Sahib to Kotkapura. When we reached near Wara Daraka, some persons came on a vehicle and struck their vehicle with our vehicle. My son Navjot Singh who was driving our vehicle tried to take ahead our vehicle but the same vehicle again restrained our way by taking their vehicle ahead of our vehicle. My son was taken out of the vehicle by the said

the unknown persons and started causing injuries on the person of my son Navjot Singh. My son Navjot Singh received multiple injuries. I informed my relative Balwinder Singh on mobile and Balwinder Singh reached on the spot and my injured son was brought to Civil Hospital, Kotkapura from where he was referred to GGS Medical College and Hospital, Faridkot where he succumbed to the injuries caused by unknown person.

When the assailants causing injuries on the person of my son Navjot Singh, I went towards side to save myself and I had not seen the assailants properly. I have seen the accused namely Anantdeep Singh @ Roma, Iqbal Kaur, Sukhvir Singh @ Sukhi, Arbat Singh, Yadwinder Singh @ Pappa, Gurmukh Singh and Didar Singh present in the court and they had not caused injuries to my son nor they were present at the spot at the time of occurrence. My statement was not recorded by the police.

At this stage learned Addl. PP for the State requested that witness is suppressing the truth and is resiling from her previous statement given to the police and she may be declared hostile and necessary permission to CTUSS examine the witness may kindly be granted. Heard. Request allowed."

Similarly, Mandeep Singh, an eyewitness, who was examined as PW11, also refused to identify the accused and has clearly stated that they had not caused injuries to his uncle Navjot Singh (since deceased) and were never present at the time of occurrence.

7. Considering the fact that the petitioner is custody for the last about seven months; his co-accused, as stated above, have already been granted the concession of regular bail by this Court; the complainant and

eyewitness have turned hostile; no other case is pending against the petitioner; culpability of the petitioner would be determined during trial and completion of trial will take some time, this Court deems it appropriate to release the petitioner on regular bail.

8. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition as it deems fit. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

October 01, 2024
sanjeev

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