

2024:PHHC:050005

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision : 15.04.2024

1. CRM-M-36840-2020

Rajiv Chahal @ Rajiv Chail..... Petitioner

versus

State of Punjab

..... Respondent

2. CRM-M-17730-2020

Deepak Bhardwaj..... Petitioner

versus

State of Punjab

..... Respondent

3. CRM-M-39382-2021

Inderjit Karwal..... Petitioner

versus

State of Punjab

..... Respondent

4. CRM-M-23314-2022

Shivi Bhatta..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Tanu Bedi, Advocate
Mr. P.S. Ahluwalia, Advocate
Mr. A.K. Khubbar, Advocate and
Mr. Karanjit Singh, Advocate
for the petitioner(s).

Mr. Mohit Kapoor, Sr. DAG, Punjab.

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PANKAJ JAIN, J. (Oral)

1. The afore-captioned petitions have been filed by the petitioners under Section 439 Cr.P.C. seeking grant of regular bail pending trial in the FIR No.77 dated 14.04.2018, registered for the offences punishable under Sections 302, 307, 323, 353, 186, 283, 188, 392, 427, 295, 332, 160, 148 and 149 of IPC, Sections 25/27/54/59 of Arms Act, 1959, Section 8A of National Highway Act, 1956, Section 3(1)(T) & 3(2)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 3 of the Prevention of Damage to Property Act, 2014 at Police Station City Phagwara, District Kapurthala.
2. All the matters arise out of same FIR, thus the same are being disposed off by common order.
3. As per the allegations levelled in the FIR, it was alleged as under:-

“Today I Inspector / SHO of the Police Station alongwith HC Jaswant Singh No.1570, HC Jasvir Singh No. 777KPT on government vehicle bearing No. PB-09-9521 being driven by HC Nachhatar Singh was present at Bij Palace Naka, when I received an information that workers of Ambedkar Sena have installed board of Baba Saheb on Government Land at Paper Chowk, Phagwara and it was written on the board as 'Samvidhan Chowk'. That they have themselves rechristened Paper Chowk as Samvidhan Chowk. At the bottom of the board telephone numbers 98559-83350, 98720-85641, 8288, 85086 are written. At this, I Inspector alongwith police party reached at Paper Chowk at around 10:00 pm. There, workers of Ambedkar

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Sena were raising slogans towards Railway Station Side. They were being led by Jarnail Nangal r/o Nangal, Harbhajan Suman r/o Palhi Gate, Pradeep Mal Engineer, Satish Suman Tent Wala r/o Khalwara, Parminder Bodh, Shama r/o Plahi Gate, Jaswinder r/o Mehta, Baba r/o Bansa Wala Bazar, Kulwinder Bhularai, Baljinder Urban Estate, son of Jarnail Nangal, Resham Nangal, Pawan Bandhan, Ashwani Baghania, Surinder Danda, Yash Verna and their 250/300 other accomplices in a gathering armed with deadly weapons such as Kirpan, Datar, Sticks, lathi, iron rods and pistols, were raising instigating and religious sacrilege slogans. On the other side, workers of Shiv Sena gathered outside the office of Ballu Walia on G.T. Road, Near Paper Chowk including Deepak @ Happy Bhardwaj, Inderjit Karwal, Shivi Banta, Sanjeev Joni, Rajesh Palta, Tinka Bhagatpura, Sunny Banta, Raj Chahal, Ballu Walia, Bantu Walia, son and nephew of Inderjit Karwal, son of maternal uncle of Inderjit Karwal with his face tied with a handkerchief, Sahbi Tohri, Ghai Financer, Nephew of Bille Prabhakar Ghanti, Yogesh Prabhakar and other 100/150 boys accompanying them, to whom I can recognise but don't know their names, armed with deadly weapons including kirpans, dangs, datar, pistol etc. were raising slogans. Assessing the condition, I informed senior officers on phone. At this, Inspector of Sub Division, Phagwara; Sh. Sukhpal Singh, Incharge CIA Staff Phagwara; Inspector Lakhbir Singh, SHO P.S. Sadar, Phagwara; SI Sakinder Singh SHO P.S. Rawalpindi, Hon'ble Superintendent of Police, Sub Division Phagwara; Deputy Superintendent of Police, Sub Division, Phagwara, Hon'ble SDM,

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Phagwara and Assistant Deputy Commissioner reached at the spot. Efforts were made to make both the parties understand, but despite repeated efforts to calm them down, both the parties attacked on each other with an intention to kill others. In the said attack, both the parties received injuries. During this attack, even some police personnel also received injuries. On account of this, persons of both the parties got injured. In the attack, both the parties attacked on each other with revolvers/pistols. Kirpans, datar, dangs, sticks and glass bottles were used to cause attack on each other with an intention to kill each other. In the said attack, they also caused damage to private and government vehicles. They also removed articles lying in the vehicles with an intention to commit loot. Shiv Sena and Ambedkar Sena by showed disrespect to each other's religious boards and damaged them. Created hindrance in the performance of police duty and also caused an attack on them. Kept the national highway closed. Both these parties with an Intention to kill each other open firing, caused an attack with deadly weapons and by pelting bricks and stones, and by burning religious boards on the chowk thereby creating hindrance in the performance of police duty, causing an attack on the police, damaging police, private vehicles, damaging motorcycles, looting valuable articles from the cars, jamming national highway and creating a riot like situation at a public place have committed offences under sections 307, 392, 160, 427, 295, 353, 186, 332, 283, 188, 148, 149 IPC and Sections 25/27-54-59 of Arms Act and Section 8 of National Highway Act. Accordingly, for registration of FIR, original

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writing is being sent to Police Station City Kapurthala through HC Jaswant Singh 1570 KPT. After registering FIR, its number be informed. Control room be informed through wireless. Special reports be sent to Illaqa Magistrate and other senior officers. I am busy at the spot in the investigation. Sd/- Gurmeet Singh, Insp SHO, P.S. City Phagwara dated 14.04.2018. Today in the area of Paper Chowk, Phagwara at 2:00 am. Today at the police station - On receipt of the above writing in the police station, above mentioned FIR has been registered under the above said sections and original writing alongwith copy of FIR is being sent to Inspector /SHO, P.S. City Phagwara through HC, who brought the file, for investigation.xxxx”

4. Counsel for the petitioner(s) submits that it was a case wherein the two opposite factions came out to blows. It was free for all among frenzy mob. Thus neither intention can be attributed to any of the petitioners nor is there any specific allegation in the FIR. Further submits that on 25.04.2022, the petitioners were ordered to be granted bail observing that all are in custody for about 04 years and owing to the application filed under Section 319 Cr.P.C. trial was not proceeded. It has been urged that the trial is still at the nascent stage owing to the fact that the proceedings under Section 319 Cr.P.C. have now travelled to this Court and are pending for 05.08.2024. Further submits that there is no allegation against any of the petitioner of having misused the concession of bail in last 02 years.

5. On being asked specifically, State Counsel admits the said fact.

6. Keeping in view the allegations levelled against the petitioners, incarceration suffered by them, the fact that trial is not likely to conclude in near future and the conduct of each of the petitioners while on interim bail, the present petitions are allowed. Petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.
7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.
8. A photocopy of this order be placed on the files of other connected cases.

15.04.2024
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No