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108-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36610-2020 (O&M)

Date of decision : 30.01.2024

Gurjeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Ranbir Singh Sekhon, Advocate,
for the petitioner.

Mr. M.S.Tiwana, AAG, Punjab,
for the respondent.

Mr. Piyush Sharma, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.24 dated 17.05.2020, under Sections 302, 341, 506, 449, 148 read with Section 149 of the Indian Penal Code, 1860, (for short, 'IPC') (Offence under Sections 212, 216 and 201 IPC and Sections 29 and 30 of the Arms Act, 1959, registered at Police Station Arif Ke, District Ferozepur.

2. Aforesaid FIR was registered on the basis of a complaint made by Satinder Singh (brother of the deceased) and contents of the same are reproduced as under:-

“Statement of Satinder Singh son of Jambar Singh son of Guljar Singh resident of Village Bandala, Police Station Arif ke, District Ferozepur, aged about 32 years, Mobile No.75288-

64503. Stated that I am resident of above mentioned address and do agriculture work. We have constructed our residential house on our land which is situated outskirts of Village Bandala and constructed a Karyana shop on the Pakki Phirni of Village Bandala at some distance from our house. In addition Atta Chakki has also installed over there. Earlier also on 07.03.2020 Sukhwinder Singh son of Jagga Singh of our village, his son Jeun Singh and Sukhdev Singh party damaged articles lying inside our Karyana shop by entering inside our Karyana Shop and also gave beatings and forcibly robbed Rs. 18000/- from our money counter. We had got registered a case No. 7 dated 7.3.2020 against them under Section 392, 452, 506, 34 IPC, 25, 27, 54-59 Arms Act at Police Station Arif Ke. Sukhdev Singh and Jeun Singh were arrested by police but their father Sukhwinder Singh @ Chhinda could be nabbed and was absconded. Today on 17.05.2020 at about 10:30 O' Clock in the morning, suddenly two vehicles XUV 500 colour white and behind them one Scorpio colour white stopped in front of our shop and I and my brother Kulwinder Singh and my uncle (Taya) Satnam Singh son of Guljar Singh, were sitting inside the shop. Out of XUV 500 Jagga Singh son of Kashmir Singh resident of Bahik Ratto ke Dakhli Bagguwala armed with 12 bore two barrel gun and Sukhwinder Singh @ Chhinda son of Jagga Singh resident of village Bandala, armed with 315 bore rifle, Manga Singh son of Pala Singh resident of village Bandala armed with kappa and alongwith them three other unknown persons and out of Scorpio vehicle colour white 6-7 unknown persons came out, to whom we can recognize them if they come across us. Jagga son of Kashmir Singh, Sukhwinder Singh @ Chhinda and Manga Singh son of Pala Singh came inside our shop. Remaining unknown persons encircled our shop. Sukhwinder Singh @ Chhinda raised lakara that they have got lodged a false case against us, teach them a lesson. On this Jagga Singh with his 12 bore two barrel gun fired directly at my brother Kulwinder Singh, who was sitting on the chair. The fire shot hit the right side of Kulwinder Singh's chest, who fell down on the ground. Sukhwinder Singh @ Chhinda said that you had lodged a false case against us. Today your brother has been killed, if raise any other dispute in future then you should also be ready. All the persons ran away from the spot alongwith their respective weapons on their vehicles. We started caring Kulwinder Singh. Arranged the vehicle and took him to Rebirth Hospital, Arif Ke in severe and injured condition. Where due to precarious condition of my brother Kulwinder Singh doctor put glucose bottle on him and referred him to Civil Hospital Ferozepur. We brought my brother Kulwinder Singh to Civil Hospital, Ferozepur, where doctor

declared my brother Kulwinder Singh dead. Reason of discord is that we had got registered above mentioned case against them at Police Station Arif Ke, out of this grudge today in connivance with each other they forcibly entered inside our house and killed my brother Kulwinderr Singh by attacking us. I was coming to you for giving information after depositing dead body of my brother Kulwinder Singh in mortuary of Civil Hospital, Ferozepur, you met at the main gate of Civil Hospital, Ferozepur. Statement recorded, heard, which is correct. I am aggrieved, action should be taken. Sd/-Satinder Singh.”

3. Learned counsel contends that petitioner has been falsely implicated in the case, as he was neither named in the FIR; nor any incriminating material is available regarding his complicity with the police. Further contended that petitioner has been nominated merely on the basis of statement of one Jagtar Singh and moreover the statement was recorded after 12 days of the alleged occurrence. Further contended that co-accused- Sarwan Singh has been granted the concession of pre-arrest bail by Co-ordinate Bench vide order dated 18.01.2021 passed in CRM-M-27845-2020 and no specific role has been attributed to the petitioner. Lastly contended that petitioner is in custody since 18.06.2020 and after investigation, report under Section 173 Cr.P.C. has already been submitted; but trial is likely to take sufficient long time; hence, petitioner be granted the concession of bail pending trial.

4. *Per contra*, learned State counsel vehemently opposed the prayer while submitting that in order to find out the truth Special Investigation Team (SIT) was constituted and during investigation, Call Detail Records/Tower Location Records of the mobile belonging to petitioner as well as other co-accused were obtained, which confirmed the

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presence of petitioner at relevant point of time. Further submitted that although, petitioner was not named in the FIR, but during investigation, apart from Jagtar Singh, one Niranjn Singh also got recorded his statement before SIT on 29.05.2020 and specifically named him as perpetrator of the crime. Further submitted that there are specific allegations against the petitioner that he, in collusion with other co-accused, committed the murder of Kulwinder Singh. Also submitted that petitioner got recovered vehicle XUV 500 bearing registration No.PB02CL-2500 along with one .12 bore gun from the house of his co-accused-Karam Singh @ Nimma, which was used in the commission of offence.

5. Learned counsel for the complainant also vehemently opposed the prayer while submitting that petitioner had played an active role in the commission of offence; and in case released on bail, he shall pressurize the prosecution witness(s) and hamper the trial in a murder case.

6. Heard learned counsel for the parties and perused the paper-book.

7. Of course, initially petitioner was not named in the present case, but as on today, *prima facie*, there is sufficient material regarding his complicity. It is quite discernible that during investigation, SIT collected Call Detail Records (CDR)/Tower Location Records of the petitioner as well as of other co-accused, indicating that he was very much present at the place of occurrence. Apart that, vehicle i.e. XUV 500 bearing registration No.PB02CL-2500 and the weapon used in the crime was recovered at the

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instance of petitioner. Also noteworthy that in the present case, Jagtar Singh and Niranjn Singh, both have specifically disclosed the role of petitioner.

8. So far as the plea of *alibi* raised by learned counsel for the petitioner is concerned, the same shall be considered by learned trial Court at appropriate stage(s) and at this stage, it would be preposterous for this Court to express any opinion in this regard. Even the plea of parity also cannot be accepted for the reason that co-accused-Sarwan Singh was more than 71 years of age, at the time of alleged occurrence.

9. As a result thereof, there is no option except to dismiss the petition.

10. Ordered accordingly.

11. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

12. Pending application(s), if any, shall also stand disposed off.

30.01.2024 (MAHABIR SINGH SINDHU)
adhikari JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No