

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.34860 of 2024 (O&M)
Date of Decision: 12.08.2024

Dr. Rachpal Singh Gill

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Preetinder S. Ahluwalia & Mr. Keerat Dhillon, Advocates
for the petitioner.

Mr. Anurag Chopra, Additional Advocate General, Punjab
for the respondent.

Mr. Baltej Singh Sidhu, Senior Advocate assisted by
Mr. Tarun Jhatta, Mr. Himmat Singh Sidhu &
Mr. Jashandeep Singh Sidhu, Advocates for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail in FIR No.65 dated
06.06.2024 (P-1), under Sections 307, 447, 427, 107, 148 read with Section
149 of the Indian Penal Code, 1860 (*for short 'IPC'*); Sections 25 & 27 of the
Arms Act, 1959, registered at Police Station Zira, District Ferozepur.



(2) Above FIR was registered on the basis of statement made by *de facto* complainant-Gurnam Singh son of Bakhshish Singh, resident of Baghi Patni, Police Station Sadar, Zira, aged around 65 years, with the following allegations:-

“Stated that I am the resident of aforementioned address; do the work of agriculture and since last many years, we are in possession of land measuring 8 Killas 12 Marlas near Gurudwara Tara Singh Shahid at village Baghi Patni and in the year 1992, in the case also filed by my father Bakhshish Singh against Mohinderjeet Singh son of Gurdeep Singh, resident of Basti Bute Wali, Hon'ble High Court, Chandigarh had granted stay holding us to be in possession of this land. We, ourselves, are cultivating and sowing this land and presently also, we had sown jantar in this land. That today at around 9:00 in the morning, we came to know that accused Mohinderjeet and others are cultivating the said land which is in our possession and I alongwith my son Gurlal Singh, brother Joginder Singh & ors. in our tractor, immediately reached at our fields where Mohinderjeet Singh armed with .315 bore gun, his son Mehakdeep Singh armed with pistol, Baba Karnail Singh, resident of Zira armed with .12 bore gun, Dr. Rachhpal Singh (present petitioner), Nagar Councillor Committee President Zira, Kulbir Singh alias Timmy Ex- Chairman, Market Committee, Zira, Buta Singh & Balwinder Singh, residents of village Tindwan along with some other unidentified persons were standing in the fields and at the rear side on the unconstructed passage, Innova car of Mohinderjeet Singh, one black coloured big vehicle and one more white coloured big vehicle were standing along with two tractors Farm-60, which were cultivating jantar sown in the land in our possession. Upon seeing us coming, petitioner-Dr. Rachhpal Singh raised lalkara from afar that today these big persons should not go unpunished and when I stopped them, then Mohinderjeet Singh, his son Mehakdeep Singh & petitioner-Dr. Rachhpal Singh along with others started hurling abuses to us and I was standing quite near to them. In the meantime, Mehakdeep Singh received phone call from Kulbir Singh Ex-M.L.A, Zira and after hearing the phone call of Kulbir Singh Zira, Mehakdeep Singh raised lalkara by saying that, "phone call of Kulbir has been received that they should not go unpunished". After his raising lalkara, Mohinderjeet Singh, who is real uncle of Kulbir Singh Ex-M.L.A.



and Baba Karnail Singh also raised lalkara for teaching a lesson to them for lobbying the civil case. On his saying so, they fired shots from their respective guns with the intention to kill him towards my son Gurlal Singh, who was standing at a distance of some karams. The shots so fired hit at the waist and legs of my son Gurlal Singh, due to which, he got seriously injured. When complainant and others tried to look after Gurlal Singh, Mehakdeep Singh continued firing from his pistol towards us. Mohinderjeet Singh and Baba Karnail Singh also kept on firing shots from their respective guns towards us. That we hid ourselves behind the big tyres of our Swaraj Tractor 855, however, since the fires shot by them hit at the bonnet of our tractor and silencer, holes had occurred therein. When I and my brother Joginder Singh started making hue and cry in a loud noise, then all the accused persons ran away from the spot with their respective weapons. Thereafter, we brought Gurlal Singh in injured condition firstly at Civil Hospital, Zira and due to his condition getting deteriorated, my younger brother Gurmeet Singh and others got my son Gurlal Singh admitted at D.M.C. Hospital, Ludhiana. The cause of rivalry is that accused Mohinderjeet Singh wants to take illegal possession in a forcible manner over the land in our possession, due to which, he alongwith his accomplices, today after entering in the land in our possession, has cultivated the land and has made my son Gurlal Singh seriously injured by firing shots on him. Statement has been got recorded, heard the same, which is correct. Action be taken.”

(3) Learned Counsel contends that from bare perusal of the FIR, no offence is made out against the petitioner. Also contends that allegation against the petitioner is that he gave a *lalkara*; but there is no injury attributed to him. Further contends that petitioner has been falsely implicated in the present case, just to create a ground for his removal from the post of President, Municipal Council, Zira in connivance with the police. Again contends that petitioner is ready to join the investigation; but he be protected.

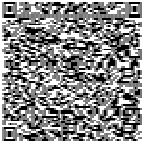
(4) *Per contra*, learned State Counsel, while opposing the prayer, submits that petitioner along with other co-accused was very much present at



the place of occurrence and he exhorted the co-accused to attack the complainant party and dispossess them from the land in question despite there being a Civil Court decree dated 03.03.1990 in their favour. Also submits that the bullet, which hit the injured, is still embodied in his body and which is yet to be removed. Therefore, *prima facie*, the offence under Section 307 IPC is made out against all the accused, including the petitioner, who was the main kingpin and instigated the members of unlawful assembly to commit the crime.

(5) Learned Senior Counsel for the complainant also, while opposing the prayer, submits that petitioner is the main person behind the scene and he is misusing his power being the President of Municipal Council, Zira. Further submits that petitioner is neither the owner of land; nor he is having any concern regarding the same, yet, in conspiracy with the other co-accused came on the spot and instigated them to attack the complainant party. Still further, submits that police is protecting the petitioner and that is the only reason that DSP filed an affidavit to the effect that his custodial interrogation is required only to know the whereabouts of co-accused; but as a matter of fact, the petitioner is the kingpin for the entire episode. Again submits that petitioner had no business to come to the fields of the complainant along with the accused party and attacked them with deadly weapons in broad daylight. Lastly submitted that custodial interrogation of the petitioner is very much necessary to know the true facts of the case.

(6) Heard learned Counsel for the parties and perused the paper-book.



(7) After going through the paper-book as well as police file, it is *prima facie* evident that petitioner was very much present at the time of alleged occurrence.

It is also discernible from the judgment and decree dated 03.03.1990 (A-8) that complainant side has been in continuous possession of the land in question since 1981, yet, the accused party in order to dispossess them attacked with deadly weapons.

Above all, the petitioner is an elected representative, holding the post of President, Municipal Council, Zira; therefore, there was no occasion for him to accompany the co-accused and to trespass into the land of complainant party with deadly weapons, leading to the alleged occurrence.

(8) In view of the above, custodial interrogation of the petitioner is very much necessary to know the true facts; hence, he is not entitled for pre-arrest bail.

(9) Consequently, there is no option except to dismiss the petition.

(10) Ordered accordingly.

(11) The above observations may not be construed as an expression of opinion on merits of the case.

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

12th August, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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