

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-39566-2023

Date of Decision:-05.03.2024

Amanjit Singh @ Amarjit Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Harpreet Singh Multani, Advocate for the Petitioner.

Mr. Deepinder Singh Brar, Senior Deputy Advocate General,
Punjab.

Mr. G.B.S. Dhillon, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

CRM-6785-2024

Allowed as prayed for.

Document annexed along with the application are taken on record as Annexure P-14 to P-17 respectively. The Registry is directed to place the same at appropriate place and paginate the paper book accordingly.

CRM-M-39566-2023

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.196 dated 28.12.2019 under Sections 307, 302, 379-B, 326, 506, 511, 148, 149, 120-B, 182, 195, 201 IPC and Sections 25/27/54/59 of Arms Act registered at Police Station Baghapurana, District Moga.

2. The present FIR came to be registered at the instance of

Joginder Singh son of Pakhar Singh which reads as under:-

“ Statement of Joginder Singh son of Dalip Singh son of Pakhar Singh resident of Rajeana age 51 years mobile No. 98145-74386 had stated that I am resident of the abovesaid address and besides practicing as a Advocate is doing the work of agriculture. We are 4 brothers. Eldest of us is Harbans Singh, younger to him is Nirmal Singh, then Balwinder Singh and I am youngest to all of them. Harbans Singh had no child and he is habitual of taking intoxicants since long, due to which most of the time he remains upset. Taking advantage of this fact Gurbej Singh son of Lal Singh resident of Rajeana by inducing him on 25/07/2014 got executed Registry of 1 acre of land of specific number from our joint share (which is illegal) in the name of his wife Daljeet Kaur. On coming to know about this, we all the three brothers filed the case in the court with regard to the land whose Registry was executed because since long we are cultivating it and are in possession. On 2-3-2019 the court gave the decision of aforesaid case in our favour according to which we had sown the crop of wheat on it. On 25-12-2019 we the whole family had gone out in a marriage but in our absence Gurbej Singh etc., had put boundaries in the wheat crop sown by us regarding which on dated 26-12-2019 a complaint was given in the Police Station which till now was under consideration. Today on 27-12-2019 time at 3:30 of the day that Gurbej Singh son of Lal Singh armed with dang, Amandeep Singh son of Grubej Singh armed with 32 bore revolver, Pawandeep Singh son of Gurbej Singh armed with 12 bore double barrel gun along with belt full of live cartridges and Daljeet Kaur wife of Gurbej Singh who was standing behind them who was holding spade's dasta in her hand residents of Rajeana and along with them 15-20 unknown persons who were holding swords, kapas and dangs came riding on a Farm Tractor, Alto Car colour white bearing No. PB29-1555 and two more cars of white colour which were standing ahead and upon coming started rising lalkaras and started abusing, upon which we came out of the house and the above mentioned accused person started coming towards us and our motor was on. When we stopped them from abusing then Pawandeep Singh gave a fire from 12 bore gun which got hit in

the abdomen of my brother Balwinder Singh who fall down on the ground. Then Amandeep Singh gave a fire with 32 bore revolver towards me which got hit on the finger adjoining to the thumb of the right hand and pellets hit on the right side of my chest then I fall down on the ground and a fire was made upon my nephew Vikram Singh on his left thigh above the knee who also fall down on the ground. Then one fire was made by Pawandeep Singh with 12 bore double barrel gun which hit on the right side of the back (Pure) of Gurbinder Singh s/o Resham Singh. While I was lying on the ground some unidentified person gave a Kapa blow on the left side of the head and gave injuries to all of us while we were lying on the ground then we raised an alarm of Marta Marta, then on seeing my sister-in-law Jinder Kaur wife of Balwinder Singh, my wife Sarbjeet Kaur and Pragat Singh s/o Mulagar Singh and other person and persons coming on the spot then the aforesaid persons snatched mobile Samsung 6 having mobile number sim 98145-74386, 73992-00090 and my gold chain weighing 2 tolas while abusing and giving threats to kill and fled away from the spot along with their respective weapons. Then my wife and other neighbours by making an arrangement of a vehicle got admitted us in the civil Hospital, Moga, who after giving us first-aid further referred to DMC Ludhiana for getting treatment. Where we are undergoing treatment. Now I have got recorded my statement to you. The cause of grudge for giving beatings is due to the wrong registry of land by the above- mentioned persons. Against whom legal action be taken. Statement has been heard and is correct and now I had come to know about the death of my brother Balwinder Singh. LTI Joginder Singh aforesaid, witness Sd/- Paramjit Singh son of Jagdev Singh Talwandi Malia District Moga, witness Sd/-Vncetpal Singh son of Nachattar Singh r/o Moga. Attested Sd/- Kulwinder Singh INSP. Station House Officer PS BaghaPurana 28.12.2019."

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case. In fact it was the complainant party which was the aggressor party and had inflicted injuries on the person of the

petitioner as well as upon his father Gurbhej Singh. A cross version emanating out of DDR No.18 dated 29.12.2019 under Sections 307, 323, 506, 148, 49, 120-B IPC and Section 25/27/54/59 of Arms Act was registered at Police Station Baghapurana against the present complainant party. Though, the said cross case had been cancelled, on the basis of a private complaint, the complainant party had been summoned to face trial by the court of JMIC, Baghapurana vide order dated 03.09.2022. As such, it was yet to be ascertained as to which party was the aggressor party. In fact it was the petitioner side which was in possession of the property in question which fact gets verified by the non invocation of Section 452 IPC. The medical evidence was also contrary to the ocular account. As the petitioner was in custody for the last more than 04 years and only 12 out of the 27 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail as the right to a speedy Trial was enshrined in Article 21 of the Constitution of India.

4. The learned State counsel along with counsel for the complainant on the other hand contend that it was a case of double murder where two persons had lost their lives at the instance of the petitioner and his co-accused. In fact a perusal of the order dated 02.03.2019 of the Additional Civil Judge(Sr. Divn.) Baghapurana would show that it was the accused side which was attempting to take the forcible possession of the property in question. The cross case had been found to be false. As the petitioner was one of the main accused, he was not entitled to the concession of bail. They however, concede the fact it was a case of version and cross version, that the petitioner was in custody for the last more than 04 years and that only 12 out of the 27 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.
6. Admittedly, it is case of version and cross version. It is still to be adjudicated as to which party was the aggressor side. The material witnesses stand examined. The petitioner is stated to be in custody for the last more than 04 years and only 12 out of the 27 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petition is not required.
7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Amanjit Singh @ Amarjit Singh** son of Sh. Gurbhej Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present one.
9. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

March 05, 2024

Vinay

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