

2024:PHHC:171228



211.
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. **CRM-M-39530-2024**
Date of decision: 19.12.2024
Jassa SinghPetitioner

Versus

State of PunjabRespondent

2. **CRM-M-39669-2024**
Baljit SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rishu Mahajan, Advocate, for the petitioner in
CRM-M-39530-2024.

Mr. Gursimran S. Bawa, Advocate, for the petitioner in
CRM-M-39669-2024.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioners, in both the petitions, detailed hereinabove, are seeking the concession of bail under Section 483 of BNSS, 2023/439 of Cr.P.C. in case FIR No.56, dated 03.08.2023, under Sections 302, 324, 323, 452, 148, 149 of IPC, 1860, registered at Police Station Bhindi Saidan, District Amritsar Rural.

Since both these petitions have arisen out of the same FIR, they are being taken up together for disposal by this common order.

Learned counsel for the petitioners submit that the instant case is based on eyewitness account; the complainant while lodging the FIR in question named most of the accused and also detailed the weapons that they were carrying. The petitioners were not named therein, however, lateron, they were nominated as accused on the basis of a supplementary statement made after 16 days of the alleged occurrence by the complainant wherein for the first time, he named the petitioners as being the unidentified persons accompanying the other assailants. Learned counsels, however, have submitted that even otherwise generalized and vague allegations have been levelled against the petitioners of having participated in the crime in question without any specific attribution to either of them much less of having inflicted fatal injuries on the person of the deceased. It has been further submitted that delayed recording of the supplementary statement by the complainant who was an alleged eyewitness raises a big question mark about the authenticity of the version brought forth by the prosecution. It has been further argued that after the petitioners' arrest (petitioner-Jassa Singh was arrested on 01.09.2023 and petitioner-Baljit Singh on 10.09.2023), all the material witnesses including the complainant and eyewitnesses have been examined. Hence, further incarceration of the petitioners would serve no useful purpose, more so, when they have no previous criminal antecedents and there can now be no possibility of the petitioners intimidating/influencing the witnesses. It has also been submitted that 21

prosecution witnesses still remained to be examined. Hence, the possibility of the trial concluding in the near future does not arise.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsels opposite, has reiterated the allegations levelled in the FIR (Annexure P-1), which stands reproduced hereinunder:-

"Statement of Harjinder Singh son of Late Bhola Singh resident of Burj aged about 28 years Mob No. 62806-62362 stated that I am a resident of the above-mentioned address and I am a labourer by profession. My Nanke (Maternal Grandparents' house) is at the village Dhupsari. On 02.08.2023, around 4 PM I along with my wife Rajbir Kaur and my niece Manjot Kaur d/o Major Singh resident of Village Burj had gone to my maternal grandparents' house at village Dhupsari. Around 7 Pm my elder brother Major Singh also came to village Dhupsari. Later around 8.30 PM, my maternal uncles Buta Singh and Sukhraj Singh sons of Balwant Singh resident of Dhupsari had a dispute with their neighbours Pargat Singh son of Kashmir Singh, Kanwaljit Singh, Manga Singh and Pamma Singh sons of Rattan Singh residents of village Dhupsari regarding installation of Handpump but I along with my brother Major Singh and my maternal uncles Buta Singh and Sukhraj Singh made them understand and afterward Kanwaljit Singh, etc. had gone to their house. My maternal uncles Buta Singh and Sukhraj Singh and their neighbours Pargat Singh and Kanwaljit Singh, etc. had their separate houses but they have a common courtyard. Around 10.30 PM, we were present in our maternal uncle's house where Kanwaljit Singh armed with datar, Manga Singh armed with datar, Pamma Singh armed with baseball all sons of Rattan Singh residents of Dhupsari, Baldev Singh armed with datar, Bhau armed with Dang son of Bhajan Singh resident of Dhupsari, Nishan Singh son of Niranjana Singh armed with datar resident of Bhindi Saidan, Nishan Singh son of Gurbaksh Singh resident of Dhupsari armed with Dang, Gursewak Singh son of Gurbaksh Singh armed with Datar resident of Dhupsari and 7/8 unknown persons armed with dangs came in the house of Pargat Singh and our uncles Buta Singh and Sukhraj Singh's house by raising lalkaras. Nishan Singh son of Niranjana Singh raised a lalkara to caught hold of us so that a lesson can be taught to us for fighting with them. Upon which Kanwaljit Singh had given a blow with his dasti datar which hit on the head of Pargat Singh and Manga Singh had given a blow of his

dasti datar which also hit on the head of Pargat Singh and their accomplices had given various blows with their weapons on the body of Pargat Singh due to which Pargat Singh became unconscious and fell on the ground then all of the accused entered into the house of Buta Singh and Sukhraj Singh upon which Nishan Singh son of Niranjan Singh had given a blow with his datar which hit on the left waist of the Buta Singh and his accomplices inflicted grievous injuries on the legs of Buta Singh. In the meantime, my elder brother Major Singh entered into the room and Nishan Singh son of Niranjan Singh, Nishan Singh, Gursewak Singh son of Gurbaksh Singh, Kanwaljit Singh, Manga Singh and Baldev Singh also entered into the room behind my brother and all of them dragged my brother into the courtyard where Nishan Singh son of Niranjan Singh had given a blow with his datar which hit on the head of Major Singh. Kanwaljit Singh had given a blow with his datar which hit on the head of Major Singh and Manga Singh had given a blow with his datar which hit on the head of Major Singh. Due to the injuries, Major Singh fell down on the ground then Baldev Singh son of Bhajan Singh gave a datar blow which hit on the face of Major Singh. Due to various injuries, Major Singh started bleeding and became unconscious. The accused persons and their accomplices had also inflicted injuries on the body of Major Singh. We raised hue and cry upon which the accused persons ran away from the spot while inflicting injuries to me and ran away in their bolero car. My mother Bawi Kaur and paternal uncle Nirmal Singh son of Jagir Singh came to the spot. After arranging a vehicle, we took Major Singh to Guru Nanak Dev Hospital Amritsar where the doctor after checking Major Singh declared him dead. Afterward, we deposited the dead body in the mortuary. The reason behind the grudge is that Kanwaljit Singh and Manga Singh sons of Ratan Singh had a dispute with Pargat Singh son of Kashmir Singh regarding the installation of handpump upon which I along with my brother Major Singh and Maternal Uncles Buta Singh and Sukhraj Singh got them separated due to which Kanwaljit Singh and Manga Singh along with their accomplices had inflicted injuries to Major Singh and killed him. I along with my maternal uncle Sukhraj Singh were coming to the police station to inform you but you have met us. Statements have been recorded. Legal action should be taken Sd/- Harjinder Singh attested by Sd/- Jaswinder Singh SHO Police Station Bhindi Saidan dated 03.08.2023.”

It has been submitted that no doubt, the petitioners were not named in the FIR in question, however, a supplementary statement was recorded by the complainant wherein he not only named both the

petitioners but also detailed the role played by them in the occurrence in question. However, learned State, on instructions from Inspector Himanshu Bhagat, has not disputed that while stepping into the witness-box, although the material witnesses had identified the petitioners and deposed that they were also present at the time of the alleged occurrence, yet no specific role had been attributed to them much less of causing fatal injuries on the person of the deceased. Learned State counsel, on further instructions, has not disputed the stage of the trial nor has he disputed the custody period of the petitioners. It has also not been disputed that all the material witnesses in the present case stand examined.

On a pointed query, it has also not been disputed by the learned State counsel, on instructions, that the petitioners have no previous criminal antecedents.

I have heard learned counsel for the parties and perused the material placed on record.

The petitioners-Jassa Singh and Baljit Singh have been in custody since 01.09.2023 and 10.09.2023 respectively. Fatal injuries have not been attributed to either of the petitioners, as not disputed by the State on instructions. The likelihood of the trial concluding in the near future seems remote as 21 prosecution witnesses still remain to be examined. Since all the material witnesses stand examined, there can be no apprehension of the petitioners intimidating/influencing the witnesses.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioners.

Accordingly, the instant petitions are allowed and the petitioners be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 19, 2024
sanjeev

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