

CRM-M-39895-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39895-2024
Reserved on: 02.09.2024
Pronounced on: 11.09.2024

Paramjeet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.P.S.Sidhu, Advocate
for the petitioner.

Mr. Sukhdev Singh, A.A.G., Punjab.

Mr. Keshav Partap Singh, Advocate and
Mr. Manvendra Singh Bishnoi, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
G.D. No.02	21.07.2024	Bahavwala, District Fazilka	307/441/511/427/148/149, IPC, Sections 25/27 of the Arms Act, 1959 (later on offence under Sections 302/120-B, IPC and Section 13 of the P.C. Act were added) and petitioner nominated as accused vide G.D. No.53 dated 25.07.2024 in case bearing FIR No.128 dated 20.08.2020 under Sections 302/307/460/447/509/511/ 148/149/120-B, IPC and Sections 25/27 of the Arms Act, 1959

1. The petitioner, who on 20th Aug 2020 was SHO of Police Station Bahav Wala, in Fazilka, Punjab (Now Retired), is apprehending arrest in the FIR captioned above for entering into a criminal conspiracy by detaining one Amit, the buyer of the land in the Police Station so that in his absence the seller Sanjay along with the goons, forcibly take back its possession, and in the process, one Parmod dies due to a bullet injury, but the petitioner allegedly framed Amit and his father as the assassins and arrested them, and also concealed the CCTV footage; and now on the unearthing of the truth in the further investigation, has come up before this Court under Section 482 of BNSS, seeking anticipatory bail.

2. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the status report dated 20-08-2024 filed by the SP (Head Quarters), Fazilka, Punjab, which reads as follows:

“5. That the brief facts of the case are that FIR No. 128 dated 20.08.2020 under Section 302, 307, 447, 460, 506, 511, 148, 149, 120-B IPC and Section 25, 27/54/59 Arms Act at Police Station Bahav Wala, District Fazilka on the statement of Sanjay Kumar against 1) Amit Kumar, 2) Rajinder Kumar, 3) Sunil Kumar, 4) Sanjeev Kumar, 5) Ved Parkash, 6) Manoj Kumar, 7) Ajay Kumar and 5/6 unknown persons.

That the petitioner has been nominated as an accused vide DDR No. 53 dated 25.07.2024 and Section 120-B IPC and Section 13 of Prevention of Corruption Act, 1988 was added in the FIR.

6. That after the investigation was concluded (at that point of time). the Challan/Report under Section 173 Cr.P.C was presented before the Ld. Trial Court on 16.11.2020. However, an application was moved by Station House Officer, for further investigation and vide order dated 26.08.2022 passed by the Ld. Trial Court, the application was allowed and further investigation was permitted by the Ld. Court below. That thereafter, the further investigation was carried out and two supplementary Challan under Section 173 (8) Cr.P.C. were presented before the Ld. Trial Court on 07.02.2023.

7. That the accused in FIR No. 128 (Supra) namely Amit Kumar approached this Hon'ble Court vide CRWP-4560 of 2021, whereby it was prayed that an FIR be registered against the present petitioner who was at the time of incident posted as Station House Officer, Police Station Bahav Wala, District Fazilka, for illegally detaining Amit Kumar and allegedly committing abduction, theft, criminal intimidation, illegal detention, criminal conspiracy, destruction of evidence and misuse of position. That it was further prayed that the investigation of FIR No. 128 (supra) be got conducted by the Bureau of Investigation, Chandigarh by constituting a Special Investigation Team.

8. That during the proceedings of CRWP-4560 of 2021, this Hon'ble Court directed the Director, Bureau of Investigation to constitute an SIT and conduct the investigation of FIR No. 128 (supra) on merits and in accordance with law vide order dated 25.04.2023.

Thus, in compliance of order dated 25.04.2023 passed by this Hon'ble High Court, the Director, Bureau of Investigation, Punjab, Chandigarh constituted a Special Investigation Team (SIT) consisting of Sh. Rakesh Kaushal, IPS, DIG/Crime, BOI, Punjab, Sh. Swarndeep Singh, PPS, AIG/Crime, BOI, Punjab, Sh. Dalbir Singh, PPS, DSP, Crime Zone, Ludhiana vide office Order no. 4096-4102/CR-LA-II dated 15.05.2023 and directed the SIT to conduct the investigation expeditiously and submit a report within 4 weeks.

9. That thereafter, the Special Investigation Team (SIT) conducted the further investigation and submitted its final report having No. 953/PA/DIG/Crime dated 03.11.2023 whereby the SIT made the following observations:-

(i) That Amit Kumar and his father Rajinder Kumar were falsely implicated as accused and arrested in FIR No. 128 dated 20.08.2020 registered under Sections 302, 307, 447, 506, 511, 148, 149, 120-B IPC and 25/27 Arms Act, (offences under Sections 460, 509 IPC added later on) at Police Station Bahav Wala, District Fazilka. That Amit Kumar was released on bail on 06.09.2022 after a period of 02 years in judicial custody and that his father namely Rajinder Kumar, who is 73 years old, is in judicial custody since the last 3 years. The then SHO, Inspector Paramjit Singh (present petitioner) wrongly arrested both father and son.

That the SIT recommended that on the basis of investigation conducted by the SIT, the Senior Superintendent of Police, District Fazilka should be directed to get the accused Amit Kumar son of Rajinder Kumar and Rajinder Kumar son of Banwari Lal discharged in the case, as they have been found to be innocent by the SIT, as investigation by the SIT has revealed that they were falsely named as accused in this case. On the contrary, Sanjay Kumar, Ravi Kumar @ Ravi Godara, Bakshish Singh, Jagdish Kumar, Vaneet Kumar, Parmod Kumar (deceased) and their other accomplices should be nominated and arrested in this FIR and after conducting fair investigation in the case, chargesheet against the aforesaid accused be filed in the Hon'ble Court so that Amit Kumar and his father may get justice.

(ii) That during the further investigation of FIR No.128 dated 20.08.2020 under Sections 302, 307, 447, 506, 511, 148, 149, 120B IPC and Section 25/27 Arms Act (offences under Sections 460, 509 of IPC added later on) at Police Station Bahav Wala, District Fazilka, it has been found that Inspector Paramjit Singh (Retired) had neither brought the DVR of CCTV cameras installed at Rajanwali Dhani on record as the evidence nor the same was deposited in Malkhana and has tried to tamper with the evidence of DVR and on the other hand he has manipulated the evidence on the police file and records. Thus, it is recommended that Inspector Paramjit Singh, the then SHO of Police Station Bahav Wala be nominated as an accused in the present FIR and Section 201 of IPC also be added to the FIR.

(iii) That further investigation of the FIR No. 128 dated 20.08.2020 under Sections 302, 307, 447, 506, 511, 148, 149, 120B IPC and Section 25/27 Arms Act (offences under Sections 460, 509 of IPC added later on) at Police Station Bahav Wala, District Fazilka, it has been found that the Arrest Memo's of Aman Kashnian son of Dharamvir, resident of Ramsara were fabricated and he was falsely shown as an eyewitness although he was not an eyewitness to the incident and his false statement under section 161 Cr.P.C was got recorded and attached alongwith the judicial file. That it was recommended that by Inspector Paramjeet Singh Retired Inspector in which innocent people were involved/nominated as accused and declared as Proclaimed Offender petitioner and Amit Kumar was kept in illegal custody at Police Station Bahav Wala and a separate FIR should also be registered for commission of offences under Sections 217, 218, 342 of IPC.

(iv) That the alleged accused Ved Parkash, Sunil Kumar and Sanjeev Kumar were wrongly declared as Proclaimed Offender in FIR no.128 dated 20.08.2020 under Sections 302, 307, 447, 506, 511, 148, 149, 120B IPC and Section 25/27 Arms Act (offences under Sections 460, 509 of IPC added later on) at Police Station Bahav Wala, District Fazilka. And have now been found as innocent during further investigation conducted by the SIT, thus it was recommended that their names as Proclaimed Offenders be removed in accordance with law.

10. That the Director, Bureau of Investigation, Punjab, Chandigarh approved the said investigation report conducted by Special Investigation Team and the same was forwarded to the then Senior Superintendent of Police, Fazilka to execute the recommendation made by Special Investigation Team vide letter no.11349/CR-LA-2 dated 14.11.2023.

11. That thereafter, on 28.11.2023, Ravi Godara son of Mani Ram,

resident of village Seeto Guno submitted a representation dated 28.11.2023 vide which a video footage transmitted in a Pendrive, claiming his false implication in the FIR No. 128 (supra) was presented before the Director, Bureau of Investigation, Chandigarh.

Thus, in view of fresh electronic evidence presented by Ravi Kumar @ Ravi Godara along with the representation dated 28.11.2023, the Director, Bureau of Investigation, Punjab, Chandigarh constituted another Special Investigation Team consisting (present 2nd SIT) of 1) Sh. Mohnish Chawla, IPS, ADGP/SCRB, Punjab, Chandigarh being the Chairman, 2) Sh. Gursharan Singh Sandhu, IPS, Inspector General of Police, Faridkot Range, Faridkot and 3) Sh. Ranjit Singh, IPS, Deputy Inspector General of Police, Ferozepur Range, Ferozepur being the members of the Special Investigation Team vide office order no.4891-97/CR/Inv/5 dated Chandigarh, 29.11.2023.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.
5. The State's counsel opposes bail and refers to the reply.
6. It would be appropriate to refer to the following portions of the reply, which read as follows:-

“20. That on 20.07.2024, the Special Investigation Team assembled in the office of Additional Deputy Commissioner of Police-III, Mall Mandi Complex, Amritsar and both the parties were asked to come present. Sh. Avtar Singh, PPS, who was the then Deputy Superintendent of Police, Sub Division Balluana now known as Sub Division Rural, Abohar on the day of the occurrence, SI Darshan Singh now retired then posted at Police Station Bahavwala and other police officials were also called. Inspector Sunil Kumar, SHO Police Station Bahavwala appeared before the Special Investigation Team and produced the report of Forensic Laboratory of Ferozepur Range, Ferozepur regarding the DVR and Pendrive. The said report was perused and it was found that Sanjay Kumar, Bakhshish Singh, Jagdish Kumar, Parmod Kumar (deceased) and others were nominated as accused under Section under Section 307, 447, 511, 427, 148, 149 IPC and Section 25, 27 of Arms Act in cross case, so SHO, Police Station Bahavwala was directed to arrest the above said accused namely accused Sanjay Kumar and Bakhshish Singh. Apart from this, from the perusal of the CCTV Footage it was also found that when Parmod Kumar received bullet injury then Rajinder Kumar was not armed with rifle and Amit Kumar was in Police Station Bahavwala at that time, so accused Sanjay Kumar son of Om Parkash son of Lekh Raj, resident of village Rajjanwali presently resident of Street No.4, Old Suraj Nagari, Abohar and Bakhshish Singh son of Jagtar Singh son of Ram Singh, resident of Dhani Arur Singh were arrested in the cross case by Inspector Sunil Kumar, SHO, Police Station Bahavwala and the cross-case was recorded vide DDR No. 02 dated NO 21.07.2024 under Section 307, 447, 511, 427, 148, 149 IPC and Section 25, 27 of Arms Act at Police Station Bahavwala on his return to Police Station Bahavwal during the midnight hours of 20/21.07.2024.

26. That Inspector Paramjit Singh wrongfully confined Amit Kumar during day time on 19.08.2020 in Police Station Bahavwala in order to facilitate Sanjay Kumar to take over the possession upon the Farmhouse as well as on the land, as the petitioner had already entered into a

settlement with Sanjay Kumar.

27. That the investigation of the present case was initiated by Inspector Paramjit Singh on 20.08.2020 and the investigation was remained with him upto 15.09.2020 but Inspector Paramjit Singh did not make any sincere efforts to recovery the DVR installed at the spot i.e. in the Farmhouse and destroyed the evidence in order to protect the actual accused Sanjay Kumar and his accomplices.

28. That it is pertinent to mention here that ASI Pappu Ram, who was posted at Police Station Bahav Wala at the time of incident was made to join the investigation and he got his statement recorded whereby, he stated that then SHO, Paramjit Singh (present petitioner) got the knowledge that the CCTV camera of the spot where the incident was ought to happen were operational. That thereafter, he directed C-II Raj Kumar to go and remove the DVR of the cameras from there.

That C-II Raj Kumar went to the spot and removed the DVR from the spot and handed it over to the petitioner then SHO Paramjit Singh. Thereafter, the petitioner took possession of the DVR and neither brought the DVR of CCTV cameras installed at Rajanwali Dhani on record as the evidence nor the same was deposited in Malkhana and has also tried to tamper with the evidence of DVR and on the other hand he has manipulated the evidence on the police file and records.

29. That Inspector Paramjit Singh conducted one sided and biased investigation of the present case and has not performed his official duty accordingly in a murder case rather he got registered the case on the concocted facts.

30. That Inspector Paramjit Singh, then SHO, Police Station Bahavwala along with the police party reached at the spot with accused Sanjay Kumar only within 8/9 minutes of the said occurrence, the police party headed by Inspector Paramjit Singh reached at the spot swiftly, as he already had knowledge about the said incident.

31. That Inspector Paramjit Singh received bribe of Rs.6,00,000/- from Sanjay Kumar in two instalments. Thus, in this way, Inspector Paramjit Singh misused his official capacity and abetted Sanjay Kumar to take over the possession upon the farmhouse as well as on the land of Amit Kumar. Inspector Paramjit Singh also concealed the material facts and got registered a false case against Amit Kumar and others.”

7. State counsel has also referred to para no.32 of the status report which reads as follows:-

“32. That custodial interrogation of Inspector Paramjit Singh now retired now petitioner is required to complete the investigation as well as to recover the bribe money of Rs.6,00,000/-. Apart from this, Inspector Paramjit Singh being a member of a disciplined force, himself took the law in his own hands and allow the accused to commit the offences. It is also necessary to interrogate the petitioner to get the corroborative evidence in regard to the role of the other accused and specifically the accused who took the petitioner in his confidence being the Station House Officer to manipulate the evidence and change the direction of the investigation. Thus, to bring on record the actual merits of the case, the petitioner is required to be in custody and interrogated, so on this score the present petition deserved to be dismissed.”

8. It shall also be appropriate to extract the relevant portion of the ballistic report from the status report filed by the AIG Police Bureau of Investigation (Annexure C-9) which reads as follows:-

“XIV) Report of Ballistic Expert:-

Ballistic Expert Dr.Sandeep Singh Sahota, Assistant Director, Ballistic, Phase-4, Mohali visited at the Dhani of occurrence on 9.11.2022 and after recreation of the place of occurrence, gave the following conclusion in his report:-

Conclusions:

I. The calculated angle of fire is 79.92".

II. The angle of impact is 10.08"

III.As blackening, lattooing and scorching (as per PMR) were found abscent, the firing was distant. The estimated distance of fire is 115 feet.

IV. On the basis of examination of firing pin impression and breech face impression, it is concluded that two firearms were used. Two 0.315 inch cartridge cases were fired through 0.315 inch bolt action rifle bearing No 74- 0187 and twelve 0315 inch cartridges were not fired through 0315 inch bolt action rifle bearing No. 74-0187.

V. On the basis of forensic ballistic report No. 624/2020/Ball/FSL/Pb dated 30.03.2021, it is concluded that, one shot was fired from top floor and another shot was fired from first floor through 0.315 inch bolt action rifle bearing No.74- 0187.

VI.Seven shots fired from top floor and five shots fired from first floor of house had not been fired through 0.315 inch bolt action rifle bearing No: 74-0187.

VII. The possibility of bullet hitting Parmod Kumar when bullet is fired from top of farm house cannot be ruled out as the calculated line of trajectory is straight and it can penetrate the cheek and exit through the occipital region if left check of the person is facing towards shooter.

After perused the report of Ballistic Expert, it came to light that with the said .315 Bore Rifle No.74-0187, only 02 shot fired has been made and 12 other fires have been done with some other Rifle. But during investigation by Local Police, only Rifle No.74-0187 of Rajinder Kumar has been recovered.”

9. In this status report, there is doubt about the distance from where the shot was fired, i.e., whether it was from 115 feet or 138 feet. However, that is immaterial for the reasons that it is mentioned in the Post Mortem Report that the shot was fired from a distance, which is reflected by the nature of the entry and exit wounds of the deceased Pramod.

10. The evidence that this Court is to analyze to decide this bail application is the involvement of the petitioner in criminal conspiracy, his strategic detention of Amit in the Police Station to facilitate Sanjay and his goons to take forcible possession of the land,

and subsequent arrest of Amit and his father, knowingly that they were innocent, because of which they were in judicial custody for two and three years respectively, concealment of CCTV footage, and all this for bribe, out of which Sanjay paid Rs 6,00,000/- to the petitioner.

11. One of the most legally admissible evidence is the statement of Aman Kashnia, recorded under S. 164 of CrPC, 1973, and the same is attached on page 399 of the bail petition, which reads as follows:

XXIV) Statement u/s 164 Cr.P.C:

From SIT (BoI) on dated 09.10.2023, the statement u/s 154 Cr.P.C. of the following persons have been recorded before the Hon'ble Court of Sh.Arjun Singh Sandhu, JMIC, Abhohar which are as under:-

Statement of Aman Kashnia s/o Dharamveer, r/o Village Ramsara, Abohar u/s 164 Cr.P.C.

Stated that I am aged about 36 years. I do agricultural work. This incident is of the year 2017. Amit Kumar bought the land from Sanjay Kumar and his mother Raj Bala. The contract was executed on 23-03-2017. In that agreement I was a witness on behalf of Sanjay. Sanjay took the money and gave possession of the land to Amit. On the day of sale deed, I, Amit Kumar and another witness were present in the Tehsil. But Sanjay and his mother did not come for registration of sale deed. Amit called and texted them several times, but they did not come. Then Amit convened panchayat. In which Sanjay asked for more money. Amit said that the land deal was decided and as per the same the money has been given. But he did not accept and he execute the sale deed In the name of Jatinder Singh, resident of Rajasthan and received Rs.80 lakh rupees from him. Amit again convened the panchayat. Then Amit gave Rs.85 lakhs to Jatinder Singh. The panchayat gave the power of attorney of the land in the name of father in law of Amit namely Inderpal and then Amit started the construction work on the land. Then Vaneet Kumar of VPO Rajanwali and Ravi Kumar of VPO Seeto told Sanjay that we will cancel your power of attorney and return the land. Then Sanjay cancelled the power of attorney. Then on 19-8- 2020, I was called by DSP (D) in the police station. After returning from the police station, I came to my Dhani from Police Station, where Sanjay Kumar, Vaneet Kumar, Bakshish Singh and 15 other boys came there. At that time, Amit Kumar was detained by Paramjit Singh of SHO Bahavwala. Sanjay Kumar etc. told me that they wanted to eat food. I took Vaneet's car and went to arrange the food. I came back with food and Ravi Kumar's call to Vaneet Kumar, who kept the phone on speaker and Ravi Kumar said that SHO told him that there was no man or weapon on Amit's Dhani. You go and take possession. All the acquaintances went to take possession. My phone was left in Vaneet's car. Then in the morning at about 4:30 AM, Vaneet and Bakshish came to my house and took me with them to the police station. They told me that when they went to Rajanwall to take the possession, there was a fight and Pramod died due to bullet injury. When I went to the police station, the SHO, Sanjay Kumar, Ravi and other employees were sitting in a room and watching the Video of CCTV of Amit's Dhani (where the Incident took place). After that Bakshish and I got admitted Sanjay to the hospital. Ravi and Vaneet told me to get admitted Sanjay to Abohar. When I came to Civil Hospital Abohar, Pramod's father had reached there. They shouted that my boy was killed. Then Vaneet and I

went to the house of Ravi at Seeto. There I met SHO Paramjit who asked me whether you want to be an accused or a witness. I said that I will be a witness. Then SHO took my signatures on 4-5 blank papers. Due to fear from all this, I have left Punjab. I have given this statement according to the incident. I have come to give the statement voluntarily. There is no pressure on me. Firstly the SHO put pressure upon me that if you don't give a statement according to Ravi Kumar, otherwise he will implicate me in some false case. I give my statement with my free will and consent."

12. It shall also be relevant to refer to the statement of Jagdish, recorded under S. 164 of CrPC, 1973 which reads as follows:-

"XXV) Statement of Jagdish s/o Immi Chand, r/o Village Khatwan, Abohar u/s 164 Cr.P.C.

Stated that I do agricultural work. I am 25 years old. I was present in my house when the incident has happened. About 11:00 AM, I received call of Parmod who said that there is the program in Dhani of Aman Kashnia, where all the boys were gathering, you too come there. As I did not have any conveyance, the boy of Ruby came to take me. When I went to Aman Kashani's Dhani, 30-35 boys were gathered there. I met Sanjay there. In the evening, Sanjay brought there liquor and bread etc. When everyone drank alcohol, Sanjay started saying that we have a farm next to it. You have to go there. We didn't know there was any possession talk. We sat in 4-5 vehicles and went to the fields. A gate was installed before the start of the field. By which the other party Amit Kumar's man was standing. Perhaps he was their Siri (peon). Sanjay slapped him and snatched the gate key from him. Then when we went further, an old man was standing. Who stopped us with folded hands and feet. All the boys were drugged with opium, poppy husk etc. There were 4-5 vehicles belonging to the Amit party which were broken by Sanjay and his boys. Cameras, lights etc. installed there were also broken by them. Then Sanjay received a call from a man named Ravi who said to complete the work. On this, Sanjay Singh break the cameras installed there. Sanjay had a 315 bore revolver/katta, with which he shot Parmod. At the same time, the police came there. The police came to the spot as soon as the shot was fired. We saw the police and then ran away. All the boys with us were 20-21 years old. All of us were drugged for this task by drinking alcohol. I am giving this statement with my free will and consent and without any pressure.

13. There is prima facie evidence of the petitioner having prior knowledge of the attempt by Sanjay and his goons to take forcible possession of the land from Amit and to facilitate it, the petitioner illegally detained Amit in the Police Station, and in his absence, Sanjay attacked the Dhani, where Parmod died due to bullet. To adjudicate this bail petition, it is immaterial whether Parmod was in the camp of Amit or Sanjay because he was a member of Sanjay's gang and hypothetically killed in self-defense by Amit's people or by Sanjay's gang as a part of a larger conspiracy. What is material is despite being a custodian to maintain law and order and being an SHO of the Police Station, the petitioner played a villain, a co-conspirator, selling his morals for a bribe and in gross dereliction of his duties towards the very people who paid his salary from their taxes.

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14. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
16. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

11.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.