

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51887-2023
Reserved on 06.02.2024
Date of decision: 14.02.2024

Boota Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Sukhdeep Singh Bhinder, Advocate,
Mr. D.S. Bhinder, Advocate and
Ms. Indira, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

Mr. PKS Phoolka, Advocate for the complainant.

Mr. R.S. Thind, Advocate for injured-Paramjit Kaur.

KARAMJIT SINGH, J. (ORAL)

1. Petitioner is seeking grant of anticipatory bail in criminal case having FIR No.77 dated 10.09.2023, under Sections 302/307/323/120-B/148/149 of IPC, registered at Police Station Balianwali, District Bathinda
2. The allegations in nutshell as recorded in FIR are that complainant Jarman Singh son of Amrik Singh resident of Village Theri, District Fatehabad (Haryana) got recorded his statement with the police to the effect that his uncle Gurmeet Singh resident of village Bhagsar, District Fazilka, purchased 4 acres of land in village Mandi Khurd District Bathinda. That prior to the occurrence in question, he accompanied his uncle Gurmeet

Singh and his wife Paramjit Kaur and they visited the aforesaid land where accused Jaswinder Singh, his son Jagmohan Singh and brother in law of Jaswinder Singh came and extended threats to them and demanded 2 acres of land and then they left the spot. That on 10.09.2023 his uncle Gurmeet Singh, his wife Paramjit Kaur along with Kuljeet Kaur and Princepal Singh again went to see the said land as Gurmeet Singh engaged labourers to uproot the eucalyptus trees standing in the said land. In the meantime, at about 12:40 PM, one white Balero car having 6 to 7 persons and 3 motor cycles each having 2 persons all armed with weapons reached the spot and attacked Paramjit Kaur and Kuljeet Kaur with different weapons and gave them beatings. Complainant, Gurmeet Singh and Princepal Singh, who were standing at some distance, tried to intervene on which Jaswinder Singh gave iron rod blow to Paramjit Kaur, the other accused also caused injuries to Paramjit Kaur. In the meantime, accused Jagmohan Singh gave sword blow which hit above the left eye of Gurmeet Singh, accused Jaswinder Singh gave iron rod blows on both the legs of Gurmeet Singh, as a result of which, Gurmeet Singh fell on the ground. Then accused Jaswinder Singh and his son Jagmohan Singh and the other accused seriously injured Gurmeet Singh with the help of different weapons and they also caused injuries to Paramjit Kaur. On hearing the hue and cry raised by the complainant party, Nirmal Singh, Balwant Singh and Balkar Singh reached the spot and tried to intervene on which the accused persons fled away from their along with their weapons and while leaving they also caused injuries to aforesaid Balkar Singh. The accused committed aforesaid crime at behest of petitioner Boota Singh, ex-sarpanch of Village Mandi Khurd who was the mastermind

behind the entire occurrence. The injured were taken to hospital where Gurmeet Singh died while he was undergoing treatment.

3. The counsel for the petitioner has *inter alia* submitted that deceased Gurmeet Singh and his wife Paramjit Kaur were having land dispute with co-accused Jaswinder Singh. The petitioner is a respectable person and is ex-Sarpanch of the village and has no association with co-accused Jaswinder Singh or any other accused person and is having no connection with the land in dispute. The counsel for the petitioner has further contended that as per FIR only allegations against the petitioner are that he conspired with the other accused persons to kill Gurmeet Singh. However, no evidence is available on the record to substantiate the aforesaid allegation. It is further contended that there was no motive for the petitioner to hatch conspiracy and plan murder of Gurmeet Singh. The counsel for the petitioner has further contended that complainant Jarman Singh and PW-Paramjit Kaur are interested witnesses being closely related to the deceased. It has been further contended that in the FIR and even thereafter, in the statement of Paramjit Kaur or any other PW recorded on 03.10.2023, no overt Act was attributed to the petitioner except for the allegations of conspiracy. PW-Paramjit Kaur made second statement dated 06.12.2023 wherein she for the first time stated that at the time of occurrence petitioner was armed with sword and he gave its blow on the left side of head of Gurmeet Singh and that all the accused persons including petitioner gave beatings to them with the weapons which the accused persons were carrying. Counsel for the petitioner has further contended that the aforesaid statement dated 06.12.2023 is an after thought. It has been

further contended that alleged eye witness Balkar Singh later on gave affidavit to the effect that he did not make any statement against the present petitioner with the police and that the petitioner is having no concern with the occurrence in question. The said affidavit of Balkar Singh is placed on record. The counsel for the petitioner has further contended that the petitioner who is falsely named in the present case, is ready to join the investigation with the police.

4. The present petition is resisted by the State counsel and counsel for the complainant and injured, who have submitted that deceased belonged to District Fazilka, whereas the land in dispute was situated in village Mandi Khurd, District Bathinda. That petitioner and most of the other accused are co-villagers. That petitioner who is ex-Sarpanch of the village intended to grab the aforesaid land belonging to Gurmeet Singh regarding which Gurmeet Singh and Paramjit Kaur were having civil litigation with co-accused Jaswinder Singh and Jaswinder Singh lost upto Hon'ble High Court. It has been further contended that the entire occurrence took place on instigation of the petitioner and the petitioner wanted to take benefit of the rivalry between Gurmeet Singh and co-accused Jaswinder Singh to usurp the aforesaid land. It has been further argued that at the initial stage when the family was in trauma, police registered FIR on the basis of statement of Jarman Singh who at that time was just 19 years of age and as such he was not able to give specific details of the occurrence to the police officials concerned. It has been further contended that on 03.10.2023 when police recorded statement of injured Paramjit Kaur wife of the deceased, she being under shock failed to disclose about the actual role

played by the petitioner at the time of occurrence. That even the police officials also tried to shield the petitioner who is an influential person. That finally, Paramjit Kaur got recorded her second statement with the police on 06.12.2023 wherein she clearly stated about the active participation of the petitioner who at the time of occurrence was armed with sword and caused injuries to deceased Gurmeet Singh and his wife Paramjit Kaur. It has been further contended that in the given circumstances, when the investigation is at its initial stage and main accused Jaswinder Singh is still to be arrested, the custodial interrogation of the petitioner is necessary to go to root of the case and in order to effect recovery of the weapon used by the petitioner in commission of crime.

5. I have considered the rival submissions made by counsel for the parties and also gone through status report filed by way of affidavit of Rahul Bhardwaj, Deputy Superintendent of Police, Sub Division Maur, Bathinda, additional affidavit of aforesaid police officer Rahul Bhardwaj, Deputy Superintendent of Police and short reply by way of an affidavit of Harmanbir Singh Gill, IPS, Senior Superintendent of Police, Bathinda.

6. Petitioner is named in the FIR as an accused and there are allegations in the FIR that the entire occurrence which took place on 10.09.2023 which resulted in death of Gurmeet Singh had taken place in collusion with the present petitioner who conspired with the other accused persons and that the petitioner was having role in the said occurrence from behind. The said FIR was registered on the basis of statement of complainant Jarman Singh. Thereafter, police recorded statements of injured Paramjit Kaur, Kuljit Kaur and Balkar Singh who also stated that

Gurmeet Singh was killed pursuant to execution of the conspiracy which was hatched by petitioner Boota Singh with co-accused Jaswinder Singh. The said statements were recorded on 03.10.2023. One another typed statement of injured Paramjit Kaur dated 06.12.2023 is there on the record wherein she stated that petitioner who was armed with sword actively participated in the occurrence in question and caused injury on the head of Gurmeet Singh with the help of sword and also attacked her and that the petitioner was also raising *lalkaras* at the time of occurrence.

7. During arguments, the counsel for the petitioner has raised doubt with regard to truthfulness of the statement of Paramjit Kaur dated 06.12.2023 on the ground that it was after delay of about 3 months. This aspect is to be taken care of by the learned trial Court at the relevant stage of trial.

8. FIR in the present case was registered under Sections 302/307/323/120-B/148/149 IPC. Admittedly, the investigation in the present case is going on and till date main accused Jaswinder Singh has not been apprehended by the police. *Prima facie*, there are allegations of conspiracy against the petitioner in the FIR wherein he has been named as an accused.

9. Even if the statement of PW-Balkar Singh is ignored for the time being for the sake of arguments, on the basis of assertion made by the counsel for the petitioner with regard to its truthfulness, then also there are statements of complainant Jarman Singh, injured Paramjit Kaur and Kuljit Kaur with regard to allegations of conspiracy and the said statements cannot be ignored at this stage just by saying that all three of them are interested

witnesses being related to deceased Gurmeet Singh.

10. There are allegations that in the present case heinous crime was committed pursuant to the criminal conspiracy between petitioner and Jaswinder Singh and the police is unable to arrest the said main accused Jaswinder Singh who was having land dispute with injured Paramjit Kaur. In the absence of custodial interrogation, it would be difficult for the investigating agency to unearth the truth behind the entire occurrence. Thus, this Court is of the view that custodial interrogation of the petitioner who is named in the FIR is necessary for the purpose of proper and effective investigation in this case.

11. Consequently, the present petition is dismissed. However, any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

14.02.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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