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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-55251-2023
Date of decision : 02.05.2024

Sandeep Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Gupreet Kaur, Advocate for
Mr. A.S. Brar, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 06.11.2023, following
order was passed:-

“Apprehending his arrest in FIR No.46 dated
27.05.2021, registered under Sections
302/326/325/324/323/427/148/149 IPC and
Sections 25/27 Arms Act at Police Station Sadar
Rampura, District Bathinda, petitioner seeks pre-
arrest bail.

Learned counsel for the petitioner *inter alia*
submits that the FIR was registered on the
statement made by Harwinder Singh @ Coach- the
deceased, who stated as under :-

*“I am resident of above said address, I do
agriculture and I am also a player of Kabaddi.
Some days ago, Gagana Singh and Babbu Singh
sons of Gella Singh, residents of Village Chaoke
took away chicken from the house of my uncle
Makhan Singh son of Kartar Singh, due to which,*

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my uncle Makhan Singh raised objection by visiting the house of Gela Singh but Babbu Singh and Gagna Singh were keeping grudge on the said matter. I used to help my uncle Makhan Singh. Due to said reason, yesterday on 25.05.2021, heated arguments took place between me and Gagna Singh, Babbu, who threatened me that they will see me. Then at about 6/7 pm, I alongwith my friends Satpal Singh s/o Binder Singh, Jaswinder Singh @ Jassa s/o Bant Singh, Hardeep Singh @ Deepi s/o Teja Singh, Satpal Singh @ Kalas/o Naib Singh, residents of Village Chaoke were talking to each other while sitting at the motor of my friend Buta Singh s/o Balwinder Singh, r/o Village Chaoke situated on Pitho Road then at that time, Gurjeet Singh s/o Binder Singh armed with Gandasa. Babbu Singh s/o Gela Singh armed with Dang, Gagana Singh s/o Gela Singh armed with Kipan, Seepu Singh s/o Binder Singh armed with Baseball and Keepa Singh s/o Darshan Singh armed with pistol, residents of Village Chaoke came up in fields and started raising lalkaras. Buta Singh and Satnam Singh due to fear fled away from the spot. Above said persons on coming started causing me beatings. Keepa Singh holding a pistol in his hand, pointed towards me, Gurjeet Singh carrying Gandasa hit on the lower side of knee of my right leg. I fell down. While I was lying down, Seepu Singh gave Baseball blow on calf muscle of my left leg, Babbu Singh gave Dang blow on my left hand. Then Gurjeet Singh gave reverse Gandasa blow on my left shoulder. Then Jaswinder Singh, Hardeep Singh and Satpal Singh came forward for my rescue but Gurjeet Singh hit blow of Kirpan on left hand of Satpal Singh and hit

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reverse Gandasa blow on right leg. Seepu Singh gave Baseball blow on left knee. Then Gurjeet Singh gave Gandasa blow on the ankle of left leg of Satpal Singh. Then they also caused injuries on left arm, right knee, near head, left arm and right hand of Hardeep Singh with their respective weapons. Gurdeep Singh gave Gandasa blow, Babbu gave Dang blow near head. Seepu gave Baseball blow and Babbu Singh gave Dang blow on Jaswinder Singh @ Jassa. Then Buta Singh and Satnam Singh raised alarm by standing at some distance and we also raised alarm 'Marta - Marta'. Said persons were also followed by 15/20 unknown persons, who also raised lalkaras. But on raising alarm by us, all said persons fled away from the spot with their respective weapons. While fleeing from the spot, they caused damage to our motorcycles parked there by giving Dang blows, whereby they caused damage to my without number CT 100. Satpal Singh's motorcycle CT 100, Jaswinder Singh @ Jassa's Splendor motorcycle colour silver and farm owner Buta Singh's motorcycle CD DOWN No.9751. Then our relatives by arranging vehicle got all of us admitted at Civil Hospital, Rampura, where we are under treatment. Grudge behind the occurrence is that arguments took place between me, Babbu, Gagna sons of Gela Singh, residents of Village Chaoke on the issue of chicken. Due to said grudge, above said persons caused us injuries. Kindly initiate proceeding against them."

After investigation the petitioner was placed in column No.2. PW-2 Hardeep Singh @ Deepi in his testimony before the trial Court stated as under :-

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“Then Sandeep Singh son of Ranjit Singh, Amandeep Singh Arsh son of Paramjit Singh, Lakhwinder Singh son of Kulwant Singh. Khushi son of Avtar Singh Pappu, Raman son of Baljit Singh Moden Ke. Sikander Singh son of Buta Singh, Loverpreet Singh Dadu, resident of village Dikh, Babbu son of Karnail Singh. Avtar Singh Tari son of Jagsir Singh, resident of Rarh, Gagandeep Tiwari @ Lucky Tiwari son of Sureh Kumar, resident of village Chowke, Kulwinder Singh Kinda Son of Gurmer Singh, resident of village Khokhar and encircled us and inflicted injuries otherwise we could have escaped. All the accused persons exhorted no body would escape from the spot and all the accused and other persons threatened that today you people are spared and if in case in future you try to intervene in our business and the business was of chitta and if we interfere in their business they would kill us. All the accused persons damage the motorcycle of Harvinder Singh Coach make CT-100 Bajaj which was won by him kabaddi cup from Mehraj, and motorcycle of Satpal Singh Satta make CF-100 Bajaj and motorcycle make Splendor of Jaswinder Singh Jassa and motorcycle make CD Deluxe bearing number 9751 of Buta Singh.

Thereafter all the accused persons while leaving the spot threatened us that if in future we interfere into their business of Chitta or any other unlawful business then you have to face the more severe consequences than this. We were taken to Civil Hospital, Rampura Phul by our villagers by arranging vehicles. We were medico legally treated there. The condition of Harvinder Singh Coach got deteriorated due to the excessive injuries received at the hands of the

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accused and he was referred to DMC, Ludhiana on 6.6.2021. During his treatment on dated 9.6.2021 he died of due to the excessive injuries received at the hands of the accused and all accused persons are liable for the same. Accused persons are in habit of causing a terror atmosphere in the village and viral their videos demonstrating dangerous weapons in their hands. I identify accused Chamkaur Singh, Balkaran Singh, Maninder Singh Gandhi and Gurpeet Singh Babbu on VC from District Jail, Muktsar Sahab. I identify accused Navdeep Singh Navi on VC from Central Jail, Faridkot.”

The same allegation was almost repeated by Buta Singh, who appeared as PW-3 :-

“Then Sandeep Singh son of Ranjit Singh, resident of village Dikh, Amandeep Singh Arsh son of Gurjit Singh @ Paramjit Singh resident of village Dikh, Lakhwinder Singh son of Kulwant Singh resident of village Dikh, Khushi son of Avtar Singh Pappu, resident of village Dikh, Raman son of Baljit Singh Moden Ke, resident of village Dikh, Sikander Singh son of Buta Singh, resident of village Dikh, Loverpreet Singh Dadu son of Paramjit Singh, resident of village Dikh. Babbu son of Karnail Singh. Avtar Singh Tari son of Jagsir Singh. Both resident of Rarh. Gagandeep Tiwari @ Lucky Tiwari son of Suresh Kumar, resident of village Chowke, Kulwinder Singh Kinda Son of Gurmel Singh, resident of village Khokhar and encircled us and inflicted injuries, otherwise we could have escaped. All the accused persons exhorted no body would escape from the spot and all the accused and other persons threatened that today you people are spared and if in case in future you try to

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intervene in our business and the business was of chitta and if we interfere in their business they would kill us. All the accused persons damage the motorcycle of Harvinder Singh Coach make CT-100 Bajaj. which was won by him kabaddi cup from Mehraj, and motorcycle of Satpal Singh Satta make CT-100 Bajaj and motorcycle make Splendor of Jaswinder Singh Jassa and motorcycle make CD Deluxe bearing number 9751 belonging to me.

Thereafter all the accused persons while leaving the spot threatened us that if in future we interfere into their business of Chitta or any other unlawful business then you have to face the more severe consequences than this. We were taken to Civil Hospital, Rampura Phul by our villagers by arranging vehicles.

We were medico legally treated there. The condition Harvinder Singh Coach got deteriorated due to the excessive injuries received at the hands of the accused and he was referred to DMC, Ludhiana on 6.6.2021. During his treatment on dated 9.6.2021 he died of due to the excessive injuries received at the hands at the accused and all accused persons are liable for the same Accused persons are in habit of causing a terror atmosphere in the village and viral their videos demonstrating dangerous weapons in their hands.

Police visited the spot and prepared rough site plan.

On 14.06.2021 I was joined by the police party headed by SI Gurinder Singh and Kuldeep Singh @ Keepa accused got recovered one iron rod with his own hand from the Kacha Path near the canal minor situated in between village Chauke to Badalia road and the police took the

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same into police possession vide Ex.PW3/A which was attested by me as witness.

On the same day I was joined by the police party headed by SI Gurinder Singh and Khuspreet Singh Babbu accused got recovered one dang with his own hand from the on the link road near the abdended place in between village Chauke to Pitho and the police took the same into police possession vide Ex.PW3/B which was attested by me as witness.

On the same day I was joined by the police party headed by SI Gurinder Singh and Lovepreet Singh @ Gagna accused got recovered one sword with his own hand from the left side of canal minor situated on the link road of village Chauke to village Badalia. Police prepared sketch of sword Ex.PW3/C and the same into police possession vide Ex.PW3/D which was attested by me as witness.

On the same day I was joined by the police party headed by SI Gurinder Singh and Gurpreet Singh @ Babbu accused got recovered one gandsa with his own hand near the pavement of canal minor under the trees situated near village Chauke. Police prepared sketch of the blade of gandsa Ex.PW3/E and the same into police possession vide Ex.PW3/F which was attested by me as witness.

On the same day I was joined by the police party headed by SI Gurinder Singh and Gurjit Singh accused got recovered one gandsa with his own hand near the pavement of canal minor under the Bohar tree situated near the link road of village Chauke to Badiala. Police prepared sketch of the blade of gandsa. Ex.PW3/G and the same into police possession vide Ex.PW3/H which was attested by me as

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witness.

On 14.06.2021 I was joined by the police party headed by SI Gurinder Singh and Mainer Singh @ Gandhi accused got recovered one stick with his own hand from the Kacha Path near the canal minor situated in between village Chauke to Badalia road and the police took the same into police possession vide Ex.PW3/1 which was attested by me as witness.

On the same day I was joined by the police party headed by SI Gurinder Singh and Sandeep Singh @ Seepu juvenile got recovered one baseball bat with his own hand from the Kacha Path near the canal minor situated in between village Chauke to Badalia road and the police took the same into police possession vide Ex.PW3/J which was attested by me as witness.

Accused Chamkaur Singh (At this stage APP requested that further examination in chief of the witness may be deferred as the application under Section 319 Cr.PC already pending in this case. Learned defence counsel opposed the request on the ground the accused person be got identified before the examination in chief. Further submission of the prosecution is that there is sufficient evidence to consider the application under Section 319 Cr.P.C. In view of the circumstances further examination in chief of the witness is deferred till the disposal of application under Section 19 Cr.P.C.”

Relying upon the aforesaid evidence application under Section 319 Cr.P.C. was moved seeking summoning of the petitioner and other co-accused as additional accused to face trial, the same has been allowed *qua* the petitioner, Avtar Singh @ Tari, Lovepreet Singh @ Daadu and Lakhwinder

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Singh.

Learned counsel for the petitioner submits that comparative reading of the contents of the FIR, which is based upon the testimony of none else but the deceased himself and the testimonies suffered by PW-2 & PW-3, it is evident that not only the allegations have been improved upon even, the motive attributed in the FIR stands altered.

Notice of motion for 26.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Trial Court.”

2. Today, learned State counsel, on instructions from ASI Lakhwinder Singh, has stated that pursuant to the order dated 06.11.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 06.11.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

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6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

02.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No