

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

CRM-M-55902-2023

Date of Decision:-21.02.2024

Sahib Singh @ Saab Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Ms. G.K. Mann, Senior Advocate assisted by
Mr. Anmol Jeevan Singh Gill, Advocate for the Petitioner.

Mr. Mohit Saroha, Assistant Advocate General, Punjab.

Mr. Rajeshwar Singh, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in Cross Case registered vide DDR No.026 dated 12.07.2023 under Sections 307, 323, 324, 336, 148, 149 IPC and Sections 25-27-54-59 of Arms Act, 1959 in case FIR No.0124 dated 11.07.2023 under Section 307 IPC and Sections 25-27 of Arms Act, 1959 registered at Police Station Lopoke, District Amritsar Rural.

2. The brief facts of the case are that initially the aforementioned FIR was registered at the instance of Sahib Singh (petitioner) and reads as under:-

“ Statement of Sahib Singh s/o Bohar Singh resident of Thatta Police station Lopoke, Tehsil Ajnala, District Amritsar Rural, aged about 55 years, Mob. No. 95928-50481, stated that I am resident of above mentioned address and working as Assistant

line man in electricity department. We are four brothers, I am the eldest and younger to me is Santokh Singh who had already died and younger to him Dilbagh Singh and youngest is Sewa Singh. We all four brothers having joint ownership of our land. Out of which 1/2 acre land was given on lease to Ninder Singh son of Dhir Singh resident of Thatta District Amritsar. For the last two years Ninder Singh resident of Thatta is cultivating this land on lease. Now Ninder Singh sown fodder crop for the last two months and from our collateral one Harpal Singh son of Mewa Singh resident of Thatta, who is nephew of our brotherhood, since long he was saying that I will create problem in their land. Whereas adjoining to this land was of Harpal Singh and he had already sold his share. About three years back a civil suit was pending in Ajnala Court which is decreed in our favour and this Harpal Singh stop Manjinder Singh from cutting the fodder crop. Today on 11.07.2023 time would be about 2.30/03.00 pm, I and my brother Dilbagh and cousin Prabhdayal Singh son of Darshan Singh, my nephew Nishan son of Santokh Singh residents of village Thatta, District Amritsar were cutting fodder from the above said land, and in the meantime Harpal Singh along with Satnam Singh alias Satta resident of village Thatti District Amritsar came on a Verna Car no. 1009 and Harpal Singh was holding a pistol and Satnam Singh was holding baseball, Harpal Singh while immediately reaching started abusing and we objected him from doing so, then in the meantime Harpal Singh with an intention to kill fired a shot from his revolver and shot hit near the knee of left leg and inside the shin and outside the shin, I got injured and fell down, Harpal Singh and Satnam Singh while giving abuses ran away from the spot, I was injured and my companion Arjinder Singh resident of Khiala Khurd District Amritsar arranged a vehicle and got me admitted at Guru Nanak Dev Hospital, Amritsar, where I am under treatment. Action be taken against the accused and justice be given. I have recorded my statement, read and heard and is correct. Sd/- Sahib Singh, witness Sd/- Arjinder Singh, verified by Sd/- Baldev Singh ASI Police Station Lopoke, dated 11.07.2023."

3. On the very next day in the present FIR itself a cross case was

registered vide DDR No.26 dated 12.07.2023 at the instance of Harpal Singh son of Sh. Mewa Singh which reads as under:-

“ Time would be about 1.30 pm, one ruqa is written and sent by ASI Baldev Singh no. 1355/ ASR-R through PHG Gursewak Singh no. 2933, received in the Police station, which is as under:- Statement of Harpal Singh son of Mewa Singh resident of village Thatta, Tehsil Ajnala, District Amritsar, aged about 40 years, Mobile No. 7017222705, stated that I am resident of above mentioned address and is an agriculturist. From our collateral Sahib Singh son of Bohar Singh resident of Thatta is my uncle (Chacha), our land was partitioned but area around 3 kanal which is on the road of Chogawan Lopoke and there was a court case going on between both the families, which I had won, this area Sahib Singh had given on lease/ Chakota to Ninder Singh and Ninder Singh has sown fodder crop in it. I being family, told Sahib Singh that I have won the case and you vacate this land but Sahib Singh is not ready to vacated. On 11.07.2023, time would be about 02.30/03.00 pm I along with Satnam Singh alias Satta son of Jagtar Singh resident of Thatti who is close to me in my car bearing registration no. PB-02-E-1009 reached at the spot where Sahib Singh s/o Bohar Singh armed with datar, Dilbagh Singh son of Bohar Singh armed with datar, Amritpal Singh alias Laadi son of Dilbagh Singh armed with datar, Nishan Singh son of Santokh Singh armed with gandasi, Prabhdayal Singh armed with daang, residents of village Thatta and three unknown persons were present and they were also having weapons, they were sitting there, I told them that when we have discussed it in the family so you cannot cut the fodder forcibly. In the meantime, Dilbagh Singh raised lalkara and said teach them lesson to take tease us, and out of them Sahib Singh gave a datar blow on me, when I raised my left hand which is hit on the wrist of left hand, Nishan Singh with his gandasi and Amritpal Singh @ Laadi with his datar caused injuries on my left arm and both legs, that unknown person took out 12 bore rifle from his swift car and fired two shots in the air, Dilbagh Singh with an intention to kill gave a datar blow on my head, on which I became unconscious and fell down, when I lying down they all cause injuries, which hit on my both fingers of left hand and on my back, Sahib Singh etc., after causing me

injuries ran away from the spot, this occurrence has been seen by Satnam Singh alias Sattu son of Jagtar Singh resident of village Thatta with his eyes, my wife Varitpal Kaur arranged a vehicle and got me admitted at Amandeep Hospital, Amritsar, where I am under treatment. The reason for dispute is that Sahib Singh is not giving a land of my share and they all with connivance with each other caused me serious injuries, legal action be taken against the above mentioned persons and justice be given. I have recorded my statement, read it, heard and is correct. Sd/- Harpal Singh, witness:- Vareetal Kaur, verified by Sd/- Baldev Singh ASI Police Station Lopoke dated 12.07.2023.”

4. The learned Senior Counsel appearing for the petitioner contends that the petitioner has been falsely implicated in the present case. It was the complainant party, which was the aggressor party. Initially the FIR had been lodged at the instance of petitioner, who had suffered gunshot injuries at the hands of Harpal Singh, complainant in the cross case. The injuries had been fabricated in the cross case to inculcate the petitioner and his co-accused. Taking the allegations to be correct, the petitioner had only inflicted simple injuries on the person of the complainant. As it is a case of version and cross version, it was yet to be decided as to which party was the aggressor side. Since the petitioner was a first time offender, in custody since 4.8.2023 and none of the 18 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.

5. The Counsel for the State has filed a short reply dated 31.01.2024 by way of affidavit of Mr. Sukhjinder Pal, DSP Sub Division, Attari, Amritsar-Rural in court today, which is taken on record. While referring to the said reply he along with counsel for the complainant contend that Harpal Singh-complainant received 10 injuries. Three injuries were

found to be grievous in nature whereas one injury was found to be dangerous to life. It was the petitioner side, which was the aggressor party. The nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. They however concede the fact that it is a case of version and cross version that the petitioner himself had received three injuries by a firearm and that none of the 18 prosecution witnesses had been examined so far.

6. I have heard learned Counsel for the parties.

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, it is a case of version and cross version and it is yet to be determined as to which party is the aggressor side. The petitioner is stated to be a first time offender, in custody since 4.8.2023 and none of the 18 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 petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sahib Singh @ Saab Singh** son of Sh. Bohar 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.

9. 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 cases mentioned in this order.

10. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case,

the State would be at liberty to move an application for cancellation of bail granted vide this Court.

11. In addition, 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 petitioner from the trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 21, 2024
Vinay

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