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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 09.01.2024

(i) CRM-M-59235-2022 (O&M)

Sikander Singh

...Petitioner

vs.

State of Punjab

...Respondent

(ii) CRM-M-41132-2023 (O&M)

Mani Singh @ Manpreet Singh

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Rajesh Lamba, Advocate
for the petitioners (in both petitions).

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Saksham Khunger, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. This order shall dispose of two petitions i.e. CRM-M-59235-2022 titled as “Sikander Singh Vs. State of Punjab” and CRM-M-41132-2023 titled as “Mani Singh @ Manpreet Singh Vs. State of Punjab”, whereby the petitioners have prayed for grant of regular bail in case FIR No.119 dated 12.08.2022 registered under Sections 307, 336, 148, 149 of IPC and Sections 25, 27 of Arms Act, 1959, at Police Station Kabarwala, District Sri Muktsar Sahib.

2. The FIR in the present case was registered on the basis of the statement made by Sukhdeep Singh son of Suba Singh and the same has been reproduced below:-

“Statement of Sukhdeep Singh aged about 44 year son of Suba Singh r/o Dhani Kolianwali Mobile No. 82645-81106. Stated that I am resident of above said address and is agriculturalist. Our land is on outlet no.47167-R Sukhchain Minor. We are 25/30 shareholders in this outlet. Kuldeep Singh s/o Kulwant Singh r/o Kolianwali has got his turn of water sanctioned on this outlet. We all shareholders raised objection on this turn. We are contesting Court case also to stop turn of water of Kuldeep Singh. But as per orders of the Court, Kuldeep Singh had got this turn of water implemented, but there was no arrangement for the irrigation to his field. This turn of water is fixed on Friday from 10.32 AM to about 5.00 PM. Even today on 12.08.2022 turn of water of above said Kuldeep Singh was on the above said outlet. Above said Kuldeep Singh tried to make irrigation through the water course of Harpreet Singh s/o Gurtej Singh r/o Kolianwali and switched off the motors of above said Harpreet Singh water of which was passing through that water course and he was using outlet water through that watercourse for the field of Shubeg Singh s/o Kulbir Singh. As to this Ravinder Kaur w/o Harpreet Singh made a complaint on helpline No.112 and had also called us by informing. Then it would be about 1½ - 2' of day time that I along with Pawanpreet Singh s/o Juglal Singh. Jagatpreet Singh s/o Charanjeet Singh, Ranjeet Singh s/o Harbhajan Singh, Mahavir Singh s/o Gurdev Singh and Gurpreet Singh s/o Gurlal Singh r/o Dhani Kundan Singh by taking along Lakhwinder Singh Brar journalist of Malout were going to get the site inspected by him by reaching the Nakka. When we reached near the 'Kotha' of Jaswinder Singh then from the side from which the water was

coming Kuldeep Singh s/o Kulwant Singh armed with Pistol, Kulwant Singh s/o Jameet Singh armed with Dang, Megh Singh s/o Mewa Singh armed with .12 Bore Gun, Iqbal Singh s/o Mewa Singh armed with .12 Bore Gun r/o Tappa Khera, Mani Singh s/o Jugraj Singh armed with Pistol, Sikandar Singh s/o Balwinder Singh armed with .12 Bore Gun r/o Sham Khera, Manjit Singh alias Babbu s/o Gurcharan Singh r/o Dhani Karrian Wali armed with Kappa, Simarjit Singh s/o Surinder Singh r/o Dhani Kundan Singh armed with Kappa and 7/8 unknown persons with them by raising Lalkara said that today we teach you lesson for causing interference in our turn of water. Then in the meanwhile Kuldeep Singh fired a shot from his Pistol, Kulwant Singh raised Lalkara that today they be not spared. Megh Singh with an intention to kill fired direct shots from his .12 Bore Gun towards us. Iqbal Singh fired shots of his .12 Bore Gun towards us with an intention to kill us. Sikandar Singh fired shots of his .12 Bore Gun towards us with an intention to kill. Manni Singh fired Pistol shots, Manjit Singh alias Babbu who was holding Kappa was also raising Lalkara, Simarjit Singh who was holding Kappa also raised Lalkara. Above said Megh Singh. Iqbal Singh and Sikandar Singh fired aimlessly from their .12 bore Guns and shots fired by them struck on my right hand wrist, on the back of left hand, on left upper arm, on the left side of chest and above said Jagatpreet Singh, Pawanpreet Singh, Ranjeet Singh, Mahavir Singh and Gurpreet Singh also received shots fired by them. We all injured fell on the ground and we raised raula of na maro, na maro then all the above said accused fled from the spot with their respective weapons. Thereafter Amarjit Singh s/o Gurbachan Singh and Sandeep Singh s/o Balveer Singh r/o Dhani Kundan Singh by arranging a conveyance took us to Civil Hospital Alam Wala for treatment and being off time of the Hospital there then got us admitted for treatment in Civil Hospital Malout where we are under Doctor's

treatment. The cause of animosity is that Kuldeep Singh had got his turn of water sanctioned in our outlet as to which we have filed a case in the Hon'ble High Court due to this animosity above said accused by conniving with each other has fired shots towards us with an intention to kill us. I have got recorded the statement with you, I am aggrieved, action be initiated. Sd/-Sukhdeep Singh above said. Attestation, Sd-SI Sukhdev Singh SHO PS Kabarwala Date 12.08.2022."

3. Learned counsel for the petitioners contends that it is a case of version and cross version and a cross case vide DDR No.37 was registered under Sections 430, 506, 160, 148, 149 of IPC against the opposite party. He further contends that Sikander Singh was arrested in the present case on 13.08.2022, whereas Mani Singh @ Manpreet Singh was arrested on 18.08.2022 and both the petitioners are in custody for the last more than 01 year and 03 months. Learned counsel further contends that all the injured in the present case are hale and hearty. He further contends that the prosecution has relied upon 25 prosecution witnesses and the conclusion of the trial may take quite a long time. He further submits that since three injured witnesses are yet to be examined, the petitioners shall not enter the village of the injured till the conclusion of the prosecution evidence.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioners on the ground that the petitioner and his co-accused had opened murderous assault on the opposite party by firing indiscriminately and six persons were seriously injured. Learned counsel further contends that since the injured witnesses have not examined so far, the

petitioners may not be ordered to be released on bail.

5. I have heard the learned counsel for the parties and have gone through the record with their able assistance.

6. Both the petitioners are in custody for the last more than one year and 03 months and from the record, it is apparent that the trial proceedings are continuing at very slow pace. Even though, this Court is bound to protect the rights of the victims, but at the same time, the Court is conscious of the fact that longer incarceration of the petitioners would be violative of Article 21 of the Constitution of India and the petitioners could not be kept behind bars for an indefinite period.

7. Since the learned counsel for the petitioners has already undertaken that the petitioners will not enter the village of the injured till the conclusion of the prosecution evidence, the apprehension expressed by the learned State counsel as well as learned counsel for the complainant seems to be unfounded.

8. Without commenting any further on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioners shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioners shall not absent themselves from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioners shall surrender their passport, if any, (if*

- already not surrendered), and in case they are not holder of the same, they shall swear an affidavit to that effect.*
- (v) The petitioners shall also file their affidavit before the concerned Court, mentioning their ordinary place of residence and number of mobile phone, which shall be used by them during the pendency of the trial. In case of change of place of residence/mobile number, they shall share the details with the concerned Court/learned Trial Court.*
 - (vi) In case, the petitioners involve in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to them.*
 - (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioners.*
 - (viii) The petitioners shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark their presence by making an entry in the rojnamcha. In case, they do not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to them shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*
 - (ix) The petitioners shall also file an undertaking before the concerned Court that they shall not enter the village of the injured at Kolianwali, Tehsil Malout, District Sri Muktsar Sahib, till the conclusion of prosecution evidence before the trial Court.*

9. Pending application, if any, is also disposed of.

09.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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