



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.61919 of 2023
Date of decision: 25th November, 2024

Tarsem Singh
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Satwant Singh Rangi & Ms. Sukhanpreet Kaur Rangi,
Advocates for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

Ms. Puja Chopra, Advocate for the complainant.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.195 dated 10.09.2021 under Sections 459, 307, 34 of the IPC and Section 27 of the Arms Act, 1959 (sections 302, 460 IPC and Section 54, 59 of Arms Act added, while Section 459 IPC deleted later on) registered at Police Station Passiana, District Patiala.

2. Learned counsel for the petitioner submits that the false implication of the petitioner in the present case is evident from the fact that no specific role, much less any act of inflicting injury on the deceased, has been attributed to him by the complainant. Even as per the version of the complainant in the FIR (Annexure P-1), the petitioner did

not enter the room of the complainant but was allegedly standing downstairs during the occurrence.

3. It has been further submitted that the narrative given by the complainant regarding the identification of the accused including the petitioner is wholly fabricated. Although four persons have been named as accused in the FIR, namely Dalwinder Singh, Avtar Singh, Rajwinder Singh and the petitioner, the complainant alleged that Dalwinder Singh and Avtar Singh entered her room and fired shots, while the petitioner and Rajwinder Singh were standing downstairs. However, during the investigation, the police placed the names of Avtar Singh and Rajwinder Singh in column No.2 of the challan, effectively excluding them from active culpability. This was further corroborated after the complainant approached this Court in CRM-M No.45185 of 2021, which led to the formation of a Special Investigation Team (SIT). The SIT subsequently, exonerated Avtar Singh and Rajwinder Singh, thereby casting significant doubt on the version given by the complainant and lending credibility to the claim of the petitioner qua his false implication.

4. Learned counsel has still further submitted that the petitioner has been in custody since 12.09.2021. The challan in the present case was filed on 07.12.2021, and none of the 28 prosecution witnesses have been fully examined till date. The trial has been repeatedly adjourned due to the persistent non-appearance of prosecution witnesses. It has been urged that given these circumstances, it is evident that the trial will take a considerable amount of time to conclude; further incarceration of

the petitioner would serve no useful purpose, more so, when there is lack of any credible evidence to directly implicate the petitioner in the murder of his sister. Learned counsel has also submitted that co-accused Harwinder Singh @ Sattu has been granted the concession of bail by this Court after the examination in chief of the complainant was recorded. Hence, the petitioner also deserves the same relief. Learned counsel, to buttress his arguments for bail on account of his long incarceration, has relied upon '**Mohd. Haroon @ Harun @ Mulla vs. State of Haryana**' SLP (Crl) 5923/2024 d/d 16.07.2024.

5. Per contra, learned counsel for the complainant has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the case at hand is based on eye-witness account; the deceased was not only the real sister of the complainant but was also the sister of the petitioner. The deceased, after her marriage ran into rough weather, had been residing along with her minor daughter with the complainant in their ancestral house. In order to ensure better care and support for the deceased and the complainant, their father had bequeathed certain properties to them. This act, however, became a source of resentment for their brothers, i.e. the petitioner and co-accused Dalwinder Singh, who became intent on usurping the said property, resulting in protracted civil litigation between the complainant's family on one side and their brothers on the other side.

6. It has been further submitted by the learned counsel for the complainant that the unfortunate incident which forms the subject matter of the present FIR, was the culmination of a series of hostile acts perpetrated by the petitioner and co-accused Dalwinder Singh against the complainant and their deceased sister. It is alleged that these acts were aimed at eliminating both the complainant and deceased to illegally gain possession of their property. Furthermore, it has been asserted that on a prior occasion, the petitioner and co-accused Dalwinder Singh had attempted to run over the complainant and the deceased with their car, while they were going on a scooter to attend some Court proceedings, causing them injuries. Despite lodging a complaint regarding this incident, the police failed to register an FIR or take any action. The authorities acted only after the deceased was murdered on the night of 09.09.2021 by the accused. It was only subsequent to this tragedy that an FIR was registered concerning the earlier incident of the attack upon both the complainant and the deceased.

7. Learned counsel for the complainant has further asserted that the investigation in the present case has been grossly mishandled by the Investigating Agency. Aggrieved by the inaction of the police, the complainant had approached this Court in CRM-M No.45185 of 2021, resulting in the formation of a SIT under the directions of this Court. It has been asserted by the learned counsel that the complainant has not yet been fully examined. Given the history of hostile and violent acts by the

petitioner and the co-accused Dalwinder Singh against the complainant and her deceased sister, there exists a significant likelihood of another unfortunate incident or in the alternate, there is a genuine apprehension that the petitioner may attempt to intimidate the complainant and tamper with evidence.

8. Learned State counsel has also opposed the plea made by the petitioner for extending the concession of bail to him by reiterating the allegations set forth in the FIR, which stands reproduced hereunder:

*“Statement of Paramjit Kaur d/o Hardaman Singh r/o village Mallomajra Police station Passiana, district Patiala aged 38 years in written, received by ASI Chamkaur Singh 497 Patiala P.S.Passiana through post, against Dalwinder Singh, **Tarsem Singh** sons of Hardaman Singh, Rajwinder Singh @ Saba (present Sarpanch) r/o Mallomajra and Avtar Singh s/o Bhola Singh r/o Village Swajpur u/s 307,459,34 IPC, u/s 27/54/59 Arms Act received by Hawaldar Gurmeet Singh 1423 Patiala, P. Patiala by hand the details of which is stated as, " that I am the resident of the above said address, and I do domestic work. We are two sisters and I have two brothers, the eldest is **Tarsem Singh** whose age is 44 years, I am younger than him, my age is 38 years, younger than me is Dalwinder Singh aged 35 years and the youngest sister is Kulwinder Kaur whose age is 33 years. My mother's name is Manjit Kaur who passed away in December 2012 and my father Hardaman Singh had died in November 2019 due to liver disease. I along with my sister Kulwinder Kaur and her daughter Hargun Kaur are residing in our ancestral home in village Mallomajra. I am unmarried and I have been*

*living here since childhood. Yesterday dated 09.09.2021, I along with my sister Kulwinder Kaur at about 9.00 PM went to the room on first floor inside the house and the daughter of my sister was also 21 with us, then at around 2-2:30 PM two persons having muffled their face with the hanky, out of them one was my brother Dalwinder Singh son of Hardaman Singh who was holding a pistol in his hand and along with him one Avtar Singh son of Bhola Singh resident of village Swajpur, were standing outside the window of our room who fired gunshots inside the room through the glass of the window. Then all three of us suddenly stepped down from the bed and stood in the corner. Then after breaking the mirror of the window on the side passage of the room, they fired 2 gunshots towards my sister Kulwinder Kaur with the intention of killing her. Then I stepped forward to save the girl Hargun Kaur. Then one gunshot hit on the left side of my neck and one gunshot hit on the bicep of my left arm. More gunshots were fired on my sister Kulwinder Kaur while she was still lying down. I raised the cry of "Marta Marta" then they came down the stairs and started to flee away from the spot. Then after opening the latch of the door of my room I saw outside, that two more persons were standing down in the stairs, who had covered their faces who were identified by me. They were my brother **Tarsem Singh** and Rajwinder Singh alias Saba present Sarpanch of village Mallomajra who jumped on the outside of the wall through the stairs. The reason behind the revenge is that, there is dispute going on with my brothers Dalwinder Singh and **Tarsem Singh** regarding the partition of land. Who do not want to give us our due share in the property. They have fought with us earlier also. Tonight Dalwinder Singh and **Tarsem***

Singh in connivance with Avtar Singh and Rajwinder 22 Singh entered our house with the intention to kill us and fired gunshots at me and my sister Kulwinder Kaur with their licensed pistol. Thereafter Gagandeep Singh s/o Tek Singh resident of Mallomajra arranged the vehicle and got us admitted in the Rajindra Hospital for treatment where our treatment is going on. I have got recorded the statement in the presence of Jasveer Kaur w/o Tek Singh, I have heard it and admitted it to be correct. Sd/- Paramjit Kaur.”

9. It is further submitted that a perusal of the FIR in question clearly reveals that the entire incident is based on an eye-witness account, in which not only the sister of the complainant lost her life but even the complainant sustained fire-arm injuries; furthermore, the complainant while lodging the FIR had provided a detailed narration of the events, explicitly naming the petitioner as one of the accused present at the scene of crime, specifically downstairs in the house where the occurrence took place. It has been argued by the learned counsel that although it is a case based on eye-witness account, however, in this case the petitioner and his brother/co-accused Dalwinder Singh also had a motive to eliminate both of his sisters; one sister lost her life whereas the complainant had a providential escape. It has been urged that motive although in cases based on eye-witness account is not of much consequence, however, in the present case it definitely lends luster to the crime in question.

10. Learned State counsel has further contended that the petitioner cannot claim parity with the co-accused, who has since been granted bail. It has been emphasized on instructions, that no specific role has been attributed to the co-accused, who has since been extended the concession of bail nor were there any allegations levelled against him by the complainant during her deposition before the trial Court. Additionally, it has been submitted that apart from the present case, two more cases are registered against the petitioner which are (i) FIR No.303 dated 10.09.2021 under Sections 279, 337 IPC (later on added Sections 307, 120-B, 34 IPC; Sections 279, 337 IPC deleted) registered at Police Station Civil Lines, Patiala and (ii) FIR No.165 dated 23.07.2021 under Sections 447, 511, 506 IPC, which highlight the criminal antecedents of the petitioner justifying that he does not deserve the concession of bail and that too, at this stage.

11. I have heard learned counsel for the parties and perused the relevant material on record.

12. A perusal of the FIR in question, which already stands reproduced hereinabove, reveals that it is a case based on eye-witness account; the petitioner was alleged to be present at the scene of crime. As not disputed, the parties have been embroiled in a civil litigation with respect to certain properties, which were bequeathed to the complainant and her deceased sister by their father, which allegedly became an eyesore for the petitioner and his co-accused/brother. The complainant is a stamped witness and her examination in chief has only been recorded

till date. She is yet to be cross-examined. Although the petitioner has been in custody since 12.09.2021, however, this Court cannot turn a blind eye to the earlier incident which took place and in which regard a complaint was also made to the police, however, strangely it was only after the murder of the deceased that the police sprung into action and got the FIR pertaining to the earlier occurrence dated 19.08.2021 registered.

13. Be that as it may, this Court would refrain from commenting upon the alleged shoddy investigation in the present case, as has been submitted by the learned counsel for the complainant. However, keeping in view the stage of the trial, this Court does not deem it fit to extend the concession of regular bail to the petitioner as there could be a likelihood of the petitioner yet again being involved in some other criminal activity vis-à-vis the complainant and there could be a likelihood of the petitioner intimidating the complainant.

14. Dismissed.

15. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

November 25, 2024
rps

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