

(227)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-63674-2023
Date of Decision: 03.04.2024
GURDIAL SINGH @ GURDIYAL SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sultan Singh Gill, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

Mr. PBS Goraya, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0249 dated 02.06.2020 registered under Sections 302, 506, 341, 120-B IPC, 1860 (Sections, 149, 34 IPC and Sections 25, 27 of Arms Act added later on) at Police Station Jhabal, District Tarn Taran.

2. The present FIR came to be registered at the instance of Gurpreet Singh son of Dilbag Singh and the same reads as under:-

“Statement of Gurpreet Singh son of late dilbag Singh, resident of Kot Dharam Chand Kalan, Police station, Jhabal, aged about 21 years. Mobile No. 7087258314, stated that I am resident of above mentioned address and an agriculturist. My father were three brothers, elder to all my father Dilbagh Singh, younger to him Lal Singh and youngest is Manjinder Singh son of Behal Singh resident of Kot Dharam Chand Kalan. My grandfather Behal Singh has

divided land in equal shares to his three sons. In spite of the division, my uncle (chacha) Manjinder Singh kept on fighting. Today morning my grandfather Behal Singh was cutting tree in his land, my uncle (chachia) Manjinder Singh armed with revolver, along with Gajjan Singh son of Gurdial Singh armed with revolver, Gurdial Singh son of Sewa Singh armed with 315 bore rifle and Gurjeet Kaur wife of Manjinder Singh armed with Dang and along with them 2/3 unknown persons came there and at that very moment Gajjan Singh raised that Manjinder Singh today let us teach them a lesson for daily disputes / conflict, it was about 7.00 AM on hearing noise, I along with my father Dilbag Singh, my uncle (chacha) Lal Singh reached on the spot. They all surrounded us and Gurdial Singh and Gurmeet Kaur raised a lalkara and said to Manjinder Singh shoot them today, they should not escape alive, teach them lesson for taking possession of trees, upon which my grandfather Behal Singh, my father Dilbag Singh started running to save themselves, then Manjinder Singh attribute fired from revolver in his hand with intention to kill toward my father Dilbag Singh and Gurdial Singh fired with his revolver with intention to kill towards my uncle (chacha) Lal Singh due to fire my father and my uncle got injured and fell on the ground. I and my grandfather Behal Singh raised alarm of "Marditta Marditta". On hearing our alarm, my uncle's son (Chacha) Prabjeet Singh, my grandmother Paramjeet Kaur and other family members reached on the spot. Then all of them along with their weapons ran away from the spot in the vehicle of Manjinder Singh Fortuner PB46W1244 and nova, Car No. 5726 while giving threat to us that they will kill us also. I along with uncle's son Prabhjeet Singh arranged the vehicle and took my father Dilbag Singh and uncle Lal Singh for their treatment to Civil hospital Tarn Taran where doctors on examining my father Dilbag Singh declared brought dead. My uncle Lal Singh died during treatment. I

along with my uncle's son Prabhjeet Singh, after leaving my grandmother Pramjeet Kaur, my grandfather Behal and other family members near to dead bodies was going to inform you about the occurrence that you met us. Reason for this fight is that my uncle (Chacha) Manjinder Singh forcibly wanted to cut trees from our land to whom we stop for doing so. We are all living outside Bohilka due to which today at about 7.00 AM, Manjinder Singh, Gajjan Singh, Gurdial Singh and Gurjeet Kaur along with 2/3 unknown persons came along with their weapons fired and gave dang blows and committed murder of my father Dilbag Singh and my uncle Lal Singh. Action be taken. Statement has been got recorded, heard and the same is correct. Sd/- Gurpreet Singh.”

3. The learned counsel for the petitioner contends that the petitioner who is of the age of 84 years has been falsely implicated in the present case. In fact, he had been kept in column No.2 when the charge-sheet was submitted and was summoned to face Trial by the Court in an application moved by the prosecution/complainant under Section 193 Cr.P.C.. It was only the weapon of Manjinder Singh alias Manna alone which had been used in the occurrence in which two persons had lost their lives. So far as the present petitioner was concerned, no recovery was effected from him as he had been found to be innocent. A co-accused of the petitioner namely, Gurjit Kaur had been granted the concession of anticipatory bail by this Court vide order dated 28.06.2023 (Annexure P-4). Similarly, one Gajjan Singh had also been granted the similar concession vide order dated 22.09.2023 (Annexure P-5). As the petitioner was in custody since 06.09.2023 and only 03 out of the 29 prosecution witnesses had been

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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.

4. On the other hand, the learned State counsel contends that though the Investigating Agency had found the petitioner to be innocent, he was summoned to face Trial under Section 193 Cr.P.C. A specific role had been attributed to him. Therefore, the nature of the allegations levelled against him did not entitle him to the grant of bail. He, however, concedes that the petitioner was in custody since 06.09.2023 and that only 03 out of the 29 prosecution witnesses had been examined so far.

5. The learned counsel for the complainant contends that the petitioner had wrongly been exonerated when the report under Section 173 Cr.P.C. was presented. However, thereafter, he had rightly been summoned to face Trial under Section 193 Cr.P.C. Therefore, as a specific role had been attributed to him in committing the offence in question, he was not entitled to the concession of bail.

6. I have heard the learned counsel for the parties.

7. Admittedly, the petitioner was found to be innocent during the course of investigation came to be summoned under Section 193 Cr.P.C. Pursuant to his arrest, no recovery has been effected from him. In fact, it was found that the weapon of Manjinder Singh alias Manna alone was used in the occurrence. The petitioner is stated to be in custody since 06.09.2023 and only 03 out of the 29 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Additionally, he is of the age of 84 years. In this situation, his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gurdial Singh @ Gurdiyal Singh son of Sewa 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 petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

03.04.2024
JITESH

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