

IN THE COURT OF POOJA ANDOTRA
ADDITIONAL SESSIONS JUDGE, TARN TARAN.
(UID Number PB0218)

PBTT010061102024



Presented on : 02-12-2024
Registered on : 03-12-2024
Decided on : 16-12-2024
Duration : 0 years, 0 months, 14 days

Case Type	BA
Filing Number	5163/2024 Filing Date: 02.12.2024
Registration Number	3020/2024 Date of Registration: 03.12.2024
CNR Number	PBTT0100-6110-2024
Date of Decision	16.12.2024

Kanwaljit Singh alias Goru, aged about 30 years son of Balwant Singh, resident of village Bhojian, Chabhal, Tehsil and District Tarn Taran.

---Applicant/accused

Versus

State of Punjab

---Respondent

FIR No.154 dated 28.10.2023
Under Section 302,324,506,34 of IPC
Police Station Chabhal

BAIL APPLICATION UNDER SECTION 482 of B.N.S.S.

Present: Shri Kanwaljit Singh Mand, counsel for applicant/accused
Shri Harmanjot Singh, Additional Public Prosecutor for State.

ORDER

The above named accused has filed this application for the grant of anticipatory bail under Section 482 of Bharatiya Nagrik Suraksha

Sanhita, 2023 (hereinafter referred to as B.N.N.S.) in the afore referred F.I.R.

2. Notice of the bail application was given to the State. Learned Additional Public Prosecutor for the State has opposed the bail application. Police record has been requisitioned.

3. Ahlmad has reported that no previous bail application has been filed or decided by any Court qua this accused in this FIR. Investigating Officer has stated no other FIR has been registered against the present applicant/accused. He has not been declared as proclaimed offender in this case.

4. The present FIR was registered on 28.10.2023 as per the statement of complainant **Manbir Singh** to the effect that on 27.10.2023, he alongwith his elder brother Gurpreet Singh had gone to the house of Gurbinder Singh son of Resham Singh, resident of Bhojjan due to some personal work. On return from his house, at about 08.00 P.M., when they were just ahead from the grocery shop of Daljit Singh son of Lakha Singh, resident of Bhojjan, then **Resham Singh** son of Gajjan Singh, **Gajjan Singh** son of Dalip Singh, **Harman Singh** son of Kundan Singh, **Kundan Singh** son of Dalip Singh, **Gurpreet Singh** son of Balwant Singh and **Balwant Singh** son of Dalip Singh, all residents of Bhojjan were present there. On seeing them, Harman Singh raised rallying cry and teaching them a lesson for trying to demolish the common wall. On hearing that, Gurpreet Singh and Balwant Singh caught hands of his brother and he rushed away from the spot, out of fear, and stopped at a distance from them. In the meantime, Resham Singh and Gajjan Singh took out knives from their pockets and started stabbing his brother with it.

Resham Singh gave knife blow in the stomach of his brother on the left side, Gajjan Singh gave knife blow on the left side of his brother's waist. Blood started oozing from his brother's body and resultantly, his brother fell down on the ground. Accused persons gave many blows to his brother while he was lying on the ground in blood shed. His brother was stabbed on his shoulder, both the thighs etc. He raised alarm and on hearing that, people started gathering at the spot from the near by locality. On seeing them, all the accused persons fled away from the spot with their respective weapons while hurling threats. He got admitted his brother to Amandeep Hospital, Amritsar after making arrangement of vehicle. Motive of attack was that they are having one wall in between their house as well as the house of Resham Singh and they wanted to construct a new one after demolishing it, but Resham Singh and party was claiming their right in the said wall.

5. Learned counsel for the applicant/accused argued that no such offence was committed by applicant and he was falsely implicated in the present case. He is an innocent person. Applicant was not named in the FIR, but later on he was falsely implicated in the present case on the statement of co-accused Resham Singh. Applicant has no concern with the alleged occurrence as alleged in the FIR. The story of the prosecution is totally false, after thought and self concocted one. Nothing is to be recovered from the applicant, so his custodial interrogation is not required. Applicant is ready to join the investigation as and when required by this Court. Prayer was made for granting the concession of anticipatory bail to applicant.

6. On the other hand, learned Additional Public Prosecutor for the State opposed the bail application on the ground that there are serious, well founded allegations against the applicant/accused to have murdered the brother of complainant in furtherance of common intention of his co-accused. Version of the prosecution is very much plausible. Custodial interrogation of the accused is required. Hence, dismissal of the application has been prayed.

7. In **Gurbaksh Singh Sibbia v. State of Punjab, (SC)**: Law Finder Doc Id # 104574 reported in 1980 AIR(SC) 1632, **Sushila Aggarwal and others Petitioners Versus State (NCT of Delhi) and another-Respondents**: Law Finder Doc ID # reported in 2020 AIR (SC) 831 Honorable Supreme Court of India has pleased to set the guidelines:-

- a) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- b) *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment of conviction by a court in respect of any cognizable offence;*
- c) *The possibility of the applicant to flee from justice;*
- d) *The possibility of the accused's likelihood to repeat similar or other offences;*
- e) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*
- f) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;*
- g) *The Courts must evaluate the entire available material against the accused very carefully. The Court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Section 34 and 149 of the Indian Penal Code, 1860 the Court should consider with even greater care and caution, because over implication the cases is a matter of common knowledge and concern;*
- h) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- i) *The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- j) *Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be*

considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the course of events, the accused is entitled to an order of bail.

8. Perusal of the police record would show that allegations against the applicant/accused are that he was one of the accused persons behind the murder of complainant's brother as he holded both the hands of the deceased and accused Resham Singh and Gajjan Singh took out knives from their pockets and started stabbing the deceased. Contention of the learned counsel for applicant that applicant was not named in the FIR as he was nominated on the disclosure statement made by main accused Resham Singh vide DDR No. 23 dated 05.11.2023 does not sustain as there is sufficient material on record at this stage to connect the applicant/accused with the commission of murder as he played active role by holding arms of complainant's brother. There are well founded grave and serious allegations against the applicant/accused for having committed grave and heinous crime.

9. In these circumstances, without expressing any opinion on the merits of the case, this Court does not find any strength in the submissions put forth by learned counsel for applicant/accused. As per the statement of co-accused, there are specific allegations raised against the applicant/accused for his active participation in the commission of this heinous murder of Gurpreet Singh. Through investigation the exact role played by the applicant/accused is required to be conducted. Custodial interrogation is required to be conducted qua him. Keeping in view the gravity of the offence alleged to be committed by applicant/accused and the seriousness of the allegations, I do not find any merit in the present application. In view of what has been stated above, the present

application, being bereft of any substance, is hereby **dismissed**. Nothing stated herein, shall be construed to be expression of opinion, on the merits of the controversy. Bail Application File be consigned to the Record Room, Tarn Taran.

Announced: 16.12.2024

**Pooja Andotra
Additional Sessions Judge,
Tarn Taran.
UID Number PB0218**

Lovepreet Stenographer Grade-II