

**IN THE COURT OF SH. RAKESH GUPTA
ADDL. SESSIONS JUDGE, BATHINDA.**

CNR No. PBBT01-000705-2021

CIS No. BA 277-2020

Decided on: 05.02.2021

Trial Pending for 26.02.2021.

State

versus

1. Avtar Singh @ Jagtar Singh @ Tara Singh son of Darshan Singh,
resident of Village Dosanjh, District Moga
2. Sukhpreet Singh @Budha son of Major Singh, resident of Village
Kusa, District Bathida (now confined in Central Jail Bathinda).

....Accused

**FIR No. 68 Dated 17.06.2018
Under Sections 302/34/120-B IPC
& Sections 25,27 of Arms Act 1959
P S : Phul, District Bathinda.**

.....

Bail Application under Section 439 Cr.P.C.

Present: Sh.Harpal S.Khara ,counsel for the applicants/accused
Sh.Amarjeet Syal, Addl. PP for the State

O R D E R

This order will dispose of an application for grant of regular bail filed by the applicants-accused Avtar Singh @ Jagtar Singh and Sukhpreet Singh @ Budha, in the above FIR.

2. Notice of the application was issued to the respondent/State, Sh.Amarjeet Syal, Addl.P.P is present and opposed this application.

3. Learned counsel contended that the applicants/accused are innocent who have been falsely implicated in this case. The applicants were not even present at the time and place of alleged occurrence but they have been wrongly implicated in the said case after an inordinate and unexplained delay. There is nothing on file to show that applicant hatched any criminal conspiracy with their co-accused or that the applicants have got brother of complainant murdered from co-accused Yadwinder Singh and Amandeep Singh. No offence under Section 302 IPC is made out against the applicant. Similarly, no offence under Section

Rakesh Gupta
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25,27 of Arms Act is made out against the applicants as the applicants did not fire any shot. He further contends that the applicants/accused were got arrested after seeking their production warrants from the jail on the allegations of conspiracy. They are in custody since long and be released on regular bail.

4. Record shows that present FIR bearing No.68 dated 17.6.2018 under Sections 302/34/120-B IPC and Sec. 25,27 of Arms Act 1959 was lodged on the statement of Megh Singh alias Megha son of Bagga Singh resident of Gill Road Phul, against two unknown persons when he got statement recorded interalia that on 17.06.2018 at about 11.00 am, he along with his brother Hardev Singh and family members was present in the house, that two unknown persons came in front of gate of his house and called that they wanted eggs. His brother Hardev Singh accompanied those persons to the Egg store. After some time, when he came near the gate of his house for some work, then he heard the noise of the gun shot from the Egg store side. In his presence, those unknowns persons fired another shot which hit his brother Hardev Singh. After that, those unknown persons boarded on their motorcycle and left towards link road Gill Kalan whereas his brother Hardev Singh succumbed at the spot. On that, he raised alarm which attracted his son Gurkirat Singh and cousin Banta Singh who arranged a vehicle and got his brother Hardev Singh admitted in Civil Hospital, Rampura, where Doctor declared him dead. On 26.7.2018, said Megha Singh got his supplementary statement recorded that they had inquired about those unknown persons who had killed his brother and those persons were Sukhpreet Singh alias Budha son of Major Singh resident of village Kussa P.S. Badni Kalan District Moga and Amandeep Singh alias Amna son of Amarjit Singh resident of Sukhchain Pura Jaito. Then he got another supplementary statement recorded on 12.08.2018 to the effect that Yadwinder Singh alias Yadu was arrested by the Patiala Police where he (Yadwinder Singh @ Yadu) confessed that he and Amandeep Singh alias Amna had committed the murder of Gogi Singh by firing shots in his stomach and head and as such Yadwinder Singh alias Yadu was also inducted as accused in this case. Then complainant got further supplementary statement recorded on 15.10.2018 that on 17.06.2018 his brother Hardev Singh alias Gogi had been killed by Aman Kumar alias Amna, Yadwinder Singh Yadu, Jagtar Singh @ Tara and Sukhpreet Singh Budha (applicants) in conspiracy with Gurbax Singh. Applicant/accused was also arrested. After completion of

necessary investigation, challan against the accused was presented in the court on.

5. After going through the final report and the documents annexed therewith as well as hearing learned APP for the State and learned defence counsel, the accused/applicants have been charged for having committed the murder of Hardev Singh alias Gogi by gunshot in prosecution of common object of co-accused; hatching a criminal conspiracy and committing murder of Hardev Singh; having found 32 bore pistol in possession of Aman Kumar alias Amna; using 32 bore pistol by Yadwinder Singh alias Yadu and using 30 bore pistol along with cartridges of same bore, 7.63 Mauser, 32 bore revolver and cartridges by Aman Kumar alias Amna accused. Applicants/accused have been charge sheeted under Sections 302/149/120-B IPC. There are also charges under Sections 25,30 and Arms Act against the co-accused Boota Singh.

6. The offences under Sections 302/149/120-B IPC levelled against the applicants (and co-accused) are serious in nature, which may invite capital punishment. The mere fact that applicants-accused are in custody since long, is not the ipso facto ground to grant them bail. The contention regarding no evidence of conspiracy against them is concerned, the same is to be appreciated after going through the evidence led during the trial. Bail application of co-accused Gurbax Singh has been dismissed by this Court vide order dated 22.01.2021. Hence, no benefit for the contentions advanced by learned counsel for the applicant/accused, can be given to him.

7. **Keeping in view the above peculiar facts, grave and serious nature of allegations, severity of sentences provided for the same, applicants-accused are not entitled for bail. Hence, his application for bail is dismissed.**

Nothing expressed herein-above, shall be construed as an expression of my opinion, on the merits of the main case.

**Pronounced.
Dated:05.02.2021**

**(Rakesh Gupta),
Addl. Sessions Judge,
Bathinda. PB0124**

Pardep Kumar
stenographer

Rakesh Gupta
Addl.S.J. Bathinda.

State Vs. Avtar Singh

BA No.277

CNR NO.PBBT01-000705-2021

Present: Sh.Harpal S.Khara, counsel for the applicants
Sh.Amarjeet Syal Addl. PP for the State

Record received. Arguments heard. Vide separate order of even date, the bail application under Sec. 439 Cr.PC filed by the applicants Avtar Singh and Sukhpreet Singh, has been dismissed.

Papers be attached with the main file.

Pronounced.
Dated: 05.02.2021

(Rakesh Gupta),
Addl. Sessions Judge,
Bathinda. UID No.PB0124

Pardeep Kumar
stenographer-I

Rakesh Gupta
Addl.S.J. Bathinda.