

1 CNR No.PBSG01-009637-2018 Baldev Singh vs. State
CIS No3000/2018

**IN THE COURT OF SHRI JASJIT SINGH BHINDER
ADDITIONAL SESSIONS JUDGE, SANGRUR.
(Unique Identification Code PB 0051).**

BA No.339 dated 17.11.2018.

Decided on01.12.2018.

Baldev Singh, age 65 years, son of Sant Singh, resident of village Burthala Mander, Tehsil Malerkotla, District Sangrur Now confined in Sub Jail Malerkotla, District Sangrur.

.....applicant.

Versus.

State.

FIR No.79 dated 02.10.2018.

U/S 341/427 etc. IPC

Application in DDR No.25 dated 03.10.2018

U/S 307/506/34 IPC & 25/27/54/59 of Arms Act.

P.S. Sadar Ahmedgarh.

Application under Section 439 Cr.P.C.

Present: Shri N.S.Dhaliwal Advocate counsel for applicants.
Shri Kanwardeep Singh Saini, Addl. PP for the State assisted
by Shri Suraj Saini Advocate.

ORDER

1. This order of mine would dispose off an application U/S 439 Cr.P.C. moved by Baldev Singh son of Sant Singh, resident of village Burthala Mander, Tehsil Malerkotla, District Sangrur (hereinafter to be referred to as bail applicant) in case bearing FIR No. 79 dated 02.10.2018, U/S 341/427 etc. IPC & application in DDR No.25 dated 03.10.2018, U/S 307/506/34 IPC & 25/27/54/59 of Arms Act, registered at P.S. Sadar Ahmedgarh on the ground that no injury has been attributed to the applicant. He has been shown simply to be present at the spot. The applicant is an old man, a retired teacher and suffering from serious

heart diseases and under the constant treatment of the doctors of CMC, Hospital Ludhiana. The applicant had filed an application U/S 438 Cr.P.C, which was declined by this Court on the ground that main accused Gurmeet Singh was not arrested by that time. Now the present bail application is a regular bail application. Gurmeet Singh main accused has already been arrested and he is also in judicial custody along with the present applicant. Gurmeet Singh son of Baldev Singh had obtained the possession of agriculture land measuring 22 Kanal 4 Marla in view of the orders of the Hon'ble High Court from the party of the complainant Pritpal Singh and others. The possession was legally delivered to Gurmeet Singh etc. by the revenue officials with the help of police on 02.10.2018. The complainant party of this case felt aggrieved and waylaid Gurmeet Singh etc and tried to cause injuries to them for which FIR No. 79 dated 02.10.2018 was registered against the complainant party of the present DDR. Lateron Pritpal Singh son of Bara Singh lodged the present DDR by twisting the fact and wrongly implicated both the applicants and prayed for grant of bail.

2. Notice of this application has been issued to the State, but no reply has been filed.

3. I have heard learned counsel for bail applicants and learned Addl. Public Prosecutor for the State and carefully perused the record.

4. The learned counsel for applicant has argued that the

applicant is in judicial custody since 03.11.2018. The learned counsel for applicant has further argued that the applicant is heart patient and he has attached the medical record on file. Even the applicant is of 65 years of age. The investigation has been completed and he be released on bail.

5. On the other hand, the learned Addl. PP for the State assisted by learned counsel for complainant has argued that there is direct allegation against the applicant. The learned Addl. PP has further argued that at this stage, he cannot be released on bail and he has relied upon the case titled as **Mahaveer @ Ajay Kumar vs. State of Rajasthan, S.B. Criminal Misc. IVth Bail application No.7167 of 2008, decided on 06.04.2009, 2009 W.L.C. 404**, wherein it has been held by the Hon'ble Rajasthan High Court that Section 439 Indian Penal Code, 1860 Section 307, 324, and 323 Offence under- Bail application- Both parties heard. In view of seriousness of offence and manner in which offence was committed prosecution cannot be blamed for delay in trial. Held, bail application cannot be granted.

6. Perusal of file shows that the present case was registered on the basis of statement of complainant Pritpal Singh son of Bara Singh in which he has stated that his father has six brothers. Out of which three are unmarried and his father is elder. The younger brothers of his father are Gurjant Singh, Dalvir Singh, Jagdev Singh, Charanjit Singh and Ram Singh and they are residing separately. His grandfather Nikka singh son

of Rulia Singh was doing the agriculture work. He used to sell his crops with Baldev Singh and Gurmeet Singh, who are owners of M/S Guru Nanak Traders. At about 20 years back Gurmeet Singh and Baldev Singh got executed forged and fabricated agreement to sell the land with his grand father. After that they were litigation in the Court and the case was decided in favour of Baldev Singh and in the year 2014-2015 they had filed an appeal before the Hon'ble High Court. After that warrants of possession of their land was issued in favour of Baldev Singh and others as per order of the Hon'ble High Court. On 02.10.2018, Baldev Singh, Gurmeet Singh for getting possession of the land came in their village at the spot. He alongwith his brother Arshdeep Singh were sent to the house of their paternal aunt Harminder Kaur wife of Hardeep Singh at village Lasoi. After that they came to know that they had gone back after taking the possession of the land. At about 4:15 P.M., they were coming to their village Malkaud, P.S.Malot District Ludhiana in Alto car bearing No.PB-10GH-4983 from the house of his paternal aunt. When they reached T point Grain Market Lasoi, then from the front side a swift car bearing No.PB-28C-0198 encircled them. Gurmeet Singh was sitting in the driver seat and Baldev Singh was sitting on the conductor seat of the car and Gurpiar Singh alighted from the car, who was armed with weapon. On seeing them, they were scared. Gurmeet Singh fired shot towards him with his weapon, which struck on his wrist. Gurmeet Singh

again fired shot towards him which hit on his abdomen part and he hide himself in the fields. After some time his brother Arshdeep Singh came to him and they reached in their village. His paternal uncle Dalwara got admitted him in civil Hospital, Malerkotla and from where he was shifted to DMC Ludhiana. On the basis of his statement, FIR was registered against three accused.

7. In the present case main allegations are against accused Gurmeet Singh who has fired shot, which hit the complainant. There is no direct allegations against the applicant of giving any injury to the complainant. Even otherwise, defence has attached medical record of CMC Ludhiana vide which the applicant has undergone cardiology surgery and the report of Christian Medical College and Hospital Ludhiana is on the file. So it is clear tht the present applicant is chronic heart patient. There is no direct allegation of giving any injury to complainant. Presentation of challan and conclusion of trial will take sufficient time. No useful purpose would be served by keeping the accused in custody. Accordingly, bail application in hand is allowed and he is ordered to be released on bail on his furnishing personal bond in the sum of Rs.25,000/- with one surety in the like amount, to the satisfaction of the trial Court/ Duty Magistrate and subject to the conditions: that applicant shall keep appearing in the trial Court on each and every date of hearing, will not leave the country without prior permission of the Court

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and will not try to influence the prosecution witnesses. File be consigned
to the record room.

Pronounced.

Dated:01.12.2018.
Mamta Threja, JW-I

(Jasjit Singh Bhinder),
Additional Sessions Judge,
Sangrur.

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Present: Shri N.S.Dhaliwal Advocate counsel for applicants.
Shri Kanwardeep Singh Saini, Addl. PP for the State assisted
by Shri Suraj Saini Advocate.

Arguments heard. Vide separate detailed order of even date,
the present bail application in hand stands allowed. Bail application (file)
be consigned to the record room.

Pronounced.

Dated: 01.12.2018.
Mamta Threja-JW-I

(Jasjit Singh Bhinder),
Addl. Sessions Judge,
Sangrur.