

**In the Court of Mr. Bishan Saroop, PB0449
Addl. Sessions Judge, Tarn Taran**

1.
CNR no. PBTT01003619/2019
BA No. 442 dated 15.07.2019.
Regd. No. BA/1856/2019
Date of order : 22.07.2019

1. Mehak Singh @ Gurmehakpreet Singh aged about 22 years son of Sahib Singh resident of Vishavkarma colony ward no.12 Patti Tehsil Patti District Tarn Taran.

2. Gurkaran Singh @ Gurkarandeep Singh aged about 24 years son of Sahib Singh resident of Vishavkarma Colony ward no.12 Patti Tehsil Patti District Tarn Taran.

3. Rajan @ Rajinder Singh aged 26 years son of Avtar Singh resident of Tarn Taran road Patti Tehsil Patti District Tarn Taran.

-----Applicants-Accused.

Versus

State.

-----Respondent-

2.
CNR no. PBTT01003620/2019
BA No. 443 dated 15.07.2019.
Regd. No. BA/1857/2019
Date of order : 22.07.2019

1. Inderjit Singh aged about 20 years son of Sukhwant Singh resident of Tarn Taran road Patti Tehsil Patti District Tarn Taran.

2. Arshdeep Singh @ Arsh aged about 22 years son of Maninderpal Singh resident of Kulla Road Patti Tehsil Patti District Tarn Taran.

-----Applicants-Accused.

Versus

State.

-----Respondent-

FIR No. 104/04.07.2019 U/s
307, 506, 148, 149 IPC and 25-
27-54-59 Arms Act registered at
PS City Patti, Tarn Taran.

Bail Applications U/s 438 of Cr.P.C.

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Present - Mr. R.P Lumba, Adv counsel for the applicants-accused.
Mr.Amarpal Singh, Addl. Public Prosecutor for the State.

BAIL ORDER

Vide this common order, I shall dispose off all the above mentioned bail applications preferred under Section 438 of the Code of Criminal Procedure by the applicants enumerated above, FIR No. 104/04.07.2019 U/s 307, 506, 148, 149 IPC and 25-27-54-59 Arms Act registered at PS City Patti, Tarn Taran.

2) Notice of this bail applications were given to the State and Mr.Amarpal Singh, Addl. Public Prosecutor made appearance on behalf of the State and produced the record.

3) The aforesaid FIR was registered, at the instance of Complainant, Major Singh son of Gurmukh Singh resident of ward no.14 Gali no.4, Patti, Tarn Taran made a statement before the police of PS City Patti that he is married and having four children and out of them one elder son namely Malkit Singh @ Laddu who is married and younger girl Rajbir kaur is unmarried. He is serving in Home Guard department and doing job at Sub Jail Patti. On 02.07.2019 at about 11.35 pm he is present at his house with his family. Then, four cars and one motorcycle were standing in front of his house and some persons came out from the cars and shouted loudly and gave abuse word on saying the name of his son Malkit Singh @ Laddu and they were armed with weapons and threatened him to kill them, then complainant stopped them not to do so, then Karan Singh son of Sukhwant Singh raised lalkara that caught hold and to teach a lesson to stopping them and one person namely Shera Singh @ Datar resident of near Gandhi Sath Patti armed with Pistol and Mehak Singh son of Sahib Singh armed with Datar and Gurkaran Sing son of Sahib Singh

armed with Datar resident of Gali Marian Wali Patti and Rajan @ Rajinder son of Avtar Singh resident of Tarn Taran road Patti armed with Gandasi and Arshdeep Singh @ Arsh son of Narinder Pal Singh resident of Kulla armed with Baseball and Kaila resident of Kulla armed with Baseball and Inderjit Singh son of Sukhwant Singh resident of Tarn Taran road armed with Kirpan along with 8-9 unidentified persons armed with weapons out of one car's registration number is PB-46-9111 scorpio and registration numbers of other cars were not read by the complainant. Shera Singh @ Datar son of Karnail Singh with intention to kill him gave shot fire with his pistol and complainant sat down to save himself and ran towards and Shera Singh @ Datar gave another five shot fires with his gun and complainant ran towards his house and close the main gate of his house while shouting "Maar Ditta Maar Ditta" and on hearing raula people of the nearby gathered there and accused persons ran away from the spot with their respective weapons.

4) I have heard the learned counsel for the applicants-accused as well as learned Addl. Public Prosecutor for the State assisted and perused the record.

5) Mr. R.P Lumba, Advocate, appearing on behalf of the applicants-accused have vehemently argued that the applicants are innocent and is being tried to be falsely implicated in the above noted case, which is registered at the instance of Major Singh, complainant. A false case has been registered against the accused-applicants just to harass them. He further submitted that the applicants-accused are already join the investigation with the Investigating Agency and their custodial interrogation is not required. With all these pleas, he prayed for concession of pre arrest bail.

6) Conversely, zeroing in on the arguments of learned counsel for applicants-accused, the learned Additional Public Prosecutor for the State has vehemently opposed the applications for the grant of bail. He further submits that the applicants gave shot fire on the complainant with intention to kill him and offence U/s 307 IPC is found to have been made out against the applicants. Moreover, the applicants-accused are not co-operated with the investigation agency at the time of joining of investigation and the weapons are yet to be recovered. He prayed that keeping in view of the seriousness of the offence, the applicants may not be released on bail.

7) After giving my thoughtful consideration to the rival submissions put forth by both the side and on careful perusal of averments put in the applications, coupled with due assistance rendered, record so produced, the court finds merits in the submissions of Id. Addl. Public Prosecutor Sh.Amarpal Singh for the State. The plea of false implication as now raised on behalf of the applicants/accused can only be ascertained at a later stage, when the evidence is adduced during the course of trail. I do feel that the allegations as levelled against the applicants/accused, prima facia, do not seem to be false or groundless as there are specific allegation that on the 02.07.2019 accused-applicants in connivance with other co accused tried to cause injury on the person of complainant with deadly weapons and also threatened the complaint to kill them. It is well settled that the provisions of section 438 Cr. PC are attracted only when it is found to be tottaly false, baseless and groundless. It is the applicants-accused to set out that no Prima facia case is made out against him. From the facts on record, it is not reflected that the accusations against the applicants-accused tottaly false and baseless.

8) When, totality of the facts of the present case when taken into consideration coupled with the ratio-decidenti laid down by the constitutional bench of the Hon'ble Apex Court in “Gurbax Singh Sibia Versus State of Punjab, 1980(2) Supreme Court cases 565” wherein it has been made abundantly clear that while deciding the application U/s 438 of Cr.P.C. that the court has to strike the balance between the liberty of the citizens and interest of general public at large. The provisions of Section 438 of Cr.P.C are intended to protect the people from a process which may suggest abuse of law, but certainly not intended to benefit people who have much to explain for their conduct which prima facie is in conflict with law. Hence, the court is of the considered opinion that in order to facilitate a through and fair investigation, the custodial interrogation of the applicant is rather inevitable. The investigation is on the offing and there are ascertained facts relating to the occurrence which are within the exclusive knowledge of the applicant and for the said purpose his custodial interrogation is required. Consequently, I find no feature available in this case, which can justify or warrant the invocation of extraordinary equitable discretion under Section 438 Cr.P.C. Hence, the instant applications for grant of anticipatory bail, being bereft of any substances, are hereby dismissed. One copy of this order be attached with BA no.443 dated 15.07.2019 titled as Inderjit Singh Vs State. Police record be return and Papers be consigned to the record room.

**Pronounced in the open Court:
22.07.2019**

Aman Dhiman Stenographer Gr.III

**(Bishan Saroop)
(UID No. PB-0449)
Addl. Sessions Judge,
Tarn Taran.**

BA/1856/2019

Mehakpreet Singh etc vs State of Punjab

Present - Mr. R.P Lumba, Adv counsel for the applicant-accused.
Mr.Amarpal Singh, Addl. Public Prosecutor for the State

Arguments heard and vide my separate detailed order even date, the instant bail application is disposed off, as detailed therein. Police record be returned and papers be consigned.

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(UID No. PB-0449)
Addl. Sessions Judge,
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