

**IN THE COURT OF PARMINDER SINGH RAI,
JUDGE,SPECIAL COURT, GURDASPUR**

CIS No.BA/1902/2023
CNR No. PBGD01-004755-2023
Date of Decision: 07/06/2023

Harpal Singh @ Bhola son of Baldev Singh, resident of Village
Nizampur, P.S. Jhander, District Amritsar.

.....Applicant.

Vs.

State of Punjab

.....Respondent

FIR No. 16 dated 26.03.2009,
Under Sections: 302, 307, 382, 427, 120-B, 148, 149 of
IPC
Police Station: Fatehgarh Churian

Application for surrender and bail.

Present: Sh. S.S. Wahla, Advocate, counsel for petitioner.
Sh. Kiran Kumar, Ld. Additional P.P. for State.

ORDER

1. Present petition has been filed by petitioner seeking
surrender and bail.
2. Upon notice, learned Additional P.P put in appearance on
behalf of respondent-State and contested the bail application.
3. The learned counsel for accused has argued that accused
was declared innocent by the police in the investigation and even
application for discharge was also moved, however, accused was
summoned only by the Court under Section 319 Cr.P.C. and so even
his custodial interrogation is not required. He is even ready to face

trial peacefully, so he may be released on bail.

4. On the other hand, it is submitted by Ld. APP for the State that accused was even earlier declared proclaimed offender, however, later on he found innocent and has been only summoned under Section 319 Cr.P.C. Only simple injury with sharp edged weapon is attributed upon him, so the present bail application may be dismissed.

5. I have considered the contentions of learned counsel for petitioner as well as Ld. Addl. Public Prosecutor and also perused the record.

6. As per the contents of the FIR, on 25.03.2009, one Sukhdev Singh alias Buta was admitted in Civil Hospital, Fatehgarh Churian. However, in order to give meals and in order to know welfare of said Sukhdev Singh @ Buta, his cousin brothers, namely, Avtar Singh alias Goldy, Inderjit Singh, Kuljit Singh, Amrinder Singh and Dilbagh Singh went to Civil Hospital, on car make Verna, bearing registration No. DL-43-AK-1272 owned by Avtar Singh alias Goldy. At about 9.00 p.m., when they were present in the hospital and were standing near the bed of Sukhdev Singh alias Buta and were talking with each other, then accused Satnam Singh alias Sattu armed with .12 bore gun, accused Gurnam Singh armed with a kirpan, Gulshan Singh alias Gulsha armed with Datar, Baldev Singh Bazigar armed with kirpan, accused Major Singh armed with .12 bore gun, accused Hira Singh armed with Datar, accused Braham

Singh alias Brahma armed with .12 bore gun, Monu alias Phull alias Rajesh Kumar armed with Datar, accused Mana armed with kirpan and two unidentified persons, who were armed with Datar, came in the ward and accused Satnam Singh alias Sattu raised lalkara to catch hold of the complainant party and no one should be allowed to escape and with an intention to kill Avtar Singh alias Goldy, accused Satnam Singh alias Sattu fired his .12 bore gun towards him, which hit on the left lateral side of his left underarm and due to the gun-shot fire arm injury, Avtar Singh alias Goldy fell down and thereafter accused Major Singh fired from his .124 bore gun with an intention to kill and some of the pellets hit Avtar Singh alias Goldy on his right phalanx and some of the pellets hit on the right hand of Dilbagh Singh. Accused Gurnam Singh gave 3-4 kirpan blows on the right leg of Avtar Singh alias Goldy and when Inderjit Singh stepped forward to rescue him, then accused Gulshan Singh alias Gulsha, Baldev Singh Bazigarh and accused Hira Singh inflicted injuries to accused Inderjit Singh with their respective weapons. There-after Kuljit Singh alongwith his son Amrinder Singh and Dilbagh Singh stepped forward to save the injured from the clutches of the accused, on which accused Rajesh Kumar alias Phull alias Monu, and Mahna alongwith two unidentified persons inflicted injuries to them, which hit on the right side of neck, left shin and right shoulder of Kuljit Singh. The injury was caused by Mohnu alias Phull alias Rajesh with Datar, and accused Braham Singh alias Brahma fire from his 12 bore

gun and as a result of which, the window glass of the hospital were broken. The complainant party raised alarm. The accused persons forcibly snatched the licenced revolver of Avtar Singh @ Goldy from his waist and before leaving the spot, the accused persons also damaged the Verna car, which was parked outside in the premises of the hospital. There-after, the accused persons alongwith their respective weapons fled away from the spot on two cars bearing No. HR-01-K-0444 make Accent and other car was Ford Fiesta. It is alleged by the complainant since no doctor was present in the hospital and the complainant alongwith his brother Inderjit Singh, his son Amrinder Singh and his cousin brother Dilbagh Singh removed Avtar Singh alias Goldy in an injured condition towards Amritsar, after arranging conveyance, but on the way, Avtar Singh @ Goldy succumbed to his injuries. The motive behind the occurrence, as disclosed by the complainant is that two days prior to the instant incident, there was a fair of Baba Rodey Shah, where the accused had clashed with Raj Karan Singh alias DC, cousin brother of Avtar Singh alias Goldy and due to that grudge in their mind, the accused persons have murdered Avtar Singh alias Goldy. When the complainant alongwith his brother Inderjit Singh, his son Amrinder Singh and his cousin brother Dilbagh Singh were going towards the police station to give information about the incident, the police party met them at Sangatpura Chowk, Fatehgarh Churian, at about 2.30 a.m., on 26.03.2009, where the complainant Kuljit Singh got

recorded his statement, and on the basis of statement of Kuljit Singh, the police swung into action and the instant case was registered initially against as many as 08 named accused persons and two unidentified persons. However, during investigation the complainant suffered a supplementary statement, wherein he had disclosed the names of unidentified assailants as Gurpreet Singh alias Mahna and Harpal Singh alias Bhola.

During the investigation, the police got recorded the statement of Narinder Singh, under Section 161 Cr.P.C. and on the strength of his statement, the accused Satnam Singh, accused Waryam Singh, accused Shamsheer Singh, accused Jagdish Singh, accused Baljit Singh, accused Manbir Singh and accused Nirmal Singh were arrested upon the allegations of hatching a criminal conspiracy in a tea-stall on 24.03.2009 to murder Avtar Singh alias Goldy. However, a Special Investigation Team was also constituted in order to inquire the allegation of hatching a criminal conspiracy in a tea-stall, as alleged by Narinder Singh and the Special Investigation Team found the persons, whose names surfaced in the testimony of Narinder Singh, as innocent.

7. Record also shows vide order dated 31.07.2009 accused was even earlier declared as proclaimed offender. Challan against him was presented, however, later on the investigating agency through prosecution moved an application for discharge as well holding that in the investigation so conducted by investigating team

alongwith this some other accused as well has been found innocent. However, the Court vide order in disposal of application under Section 319 Cr.P.C dismissed the said application and summoned him as well along-with other accused namely Major Singh, Braham Singh, Gurpreet Singh. Vide order dated 29.05.2023 passed by the Hon'ble Punjab and Haryana High Court, the order vide which he was declared proclaimed offender and consequent proceedings have been stayed. So as of now the situation is that the investigating agency is finding no evidence against accused and finding him innocent, however, the Court had summoned him and subsequently even has been declared as offender. His custodial interrogation is not required for any purpose. Issuance of proclamation even would be just to procure his presence as well as even observed by the Hon'ble High Court as well in aforesaid case that the primary object of court is to secure the presence of the accused in the trial. So, in such circumstances accused having been summoned under Section 319 Cr.P.C only his custodial interrogation not required for any sort of a purpose sending him to custody would not serve any purpose and so he is admitted to bail on furnishing his bail bonds to the tune of Rs.1,00,000/- with one surety in the like amount, subject to the following conditions:-

- i. That he will appear in the court on each and every date of hearing;
- ii. That he will not leave the country without prior

permission of the Court;

- iii. That he will not make any threat, promise or inducement to any person conversant with the facts of the case to dissuade him/her from disclosing the truth to the Court or police;

Record of present bail application be attached with the main file.

Pronounced
Dated:07/06/2023
Gurpreet Singh, Stenographer-II

(Parminder Singh Rai)
Addl. Sessions Judge,
Gurdaspur.

Present: Shri S.S. Wahla, Advocate, counsel for petitioner.
Shri Kiran Kumar, Ld. Additional P. P for State

Application for surrender and bail presented today. It be registered. Notice of the bail application be given to State for today itself. Judicial record perused. Arguments heard. Vide my separate detailed order of even date, bail application has been allowed, subject to the detail mentioned therein. Bonds furnished, which have been accepted and attested. Record of present bail application be attached with the main file.

Pronounced
Dated: 07/06/2023
Gurpreet Singh, Stenographer-II

(Parminder Singh Rai)
Addl. Sessions Judge,
Gurdaspur.