



IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-14326-2023 (O&M)

Reserved on: 22.08.2023

Pronounced on: 29.09.2023

Sukhbir Singh Badal

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CRM-M-14915-2023 (O&M)

Sumedh Singh Saini

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CRM-M-14926-2023 (O&M)

Paramraj Singh Umaranagal

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CRM-M-16991-2023 (O&M)

Amar Singh Chahal

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CRM-M-14308-2023 (O&M)

Sukhminder Singh Mann

... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CRM-M-14921-2023 (O&M)

Charanjit Sharma

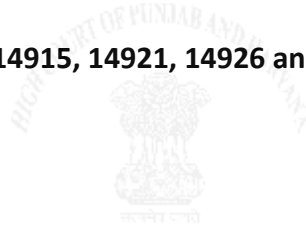
... Petitioner(s)

Versus

State of Punjab

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARAPresent:- Mr. R.S. Cheema, Sr. Advocate with
Mr. A.S. Cheema, Advocate,



Mr. D.S. Sobti, Advocate,
Mr. Satish Sharma, Advocate
for the petitioner(s) in CRM-M-14326-2023.

Mr. SPS Sidhu, Advocate and
Mr. Sarbuland Mann, Advocate
for the petitioner(s) in CRM-M-14308, 14915, 16991-2023.

Mr. Sangram Saron, Advocate and
Mr. Madhaurao Rajwade, Advocate
for the petitioner(s) in CRM-M-14921 & 14926-2023.

Mr. Gaurav Garg Dhuriwala, Addl.A.G, Punjab.
Mr. Iman Singh Khara, Advocate
for the complainant.

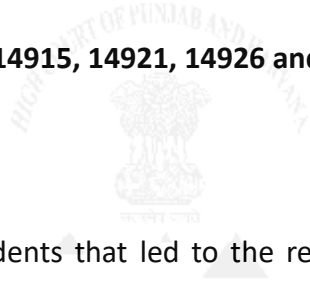
ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
129	7.8.2018	City Kotkapura, District Faridkot	307, 324, 323, 341, 427, 504, 120-B, 34, 119, 109, 153, 295A IPC and Section 27 Arms Act.

1. This order shall dispose of six petitions, i.e., CRM-M-14308, 14326, 14915, 14921, 14926, and 16991 of 2023, wherein similar facts are involved, and common prayer has been made. However, for brevity, facts are being taken from CRM-M-14326-2023.

2. The petitioners, apprehending arrest for hatching a conspiracy for unprovoked firing upon peaceful protesters at Katkapura and Behbal Kalan and further, on issuance of notice by the Judicial Magistrate Ist Class, Faridkot, after the police had filed report under Section 173 CrPC before the said Judicial Magistrate, launching prosecution against all the accused including Prakash Singh Badal, former Chief Minister, Punjab, who expired on 25.04.2023, and the concerned DySP had undertaken to procure the service of all the accused persons in compliance of Section 170 CrPC, in the FIR captioned above, have come up before this Court under Section 438 CrPC seeking anticipatory bail.

3. Before filing the present petition, the petitioners, along with co-accused Prakash Singh Badal (since deceased), had filed applications for anticipatory bails before the Sessions Court, Faridkot, which was dismissed *qua* petitioner Sukhbir Singh Badal; however, co-accused Prakash Singh Badal (since deceased) was granted bail, vide order dated 16.3.2023 passed by Additional Sessions Judge, Faridkot. Even the petitions filed by other petitioners, whose case numbers are mentioned above, were also dismissed.



4. The trail of incidents that led to the registration of the FIR, captioned above, allegedly relates to a congregation of Gurmeet Ram Rahim Singh, Head, Dera Sacha Sauda, held at Salabatpura on 13.5.2007, in which he allegedly imitated himself as Guru Gobind Singh ji and such conduct allegedly triggered a religious controversy amongst the followers of the Sikh faith and others. However, the petitioner – Sukhbir Singh Badal, in Ground 'N' of the Bail Petition, i.e., CRM-M-14326-2023, states that to relate the present FIR to the incident of 2007 is a fictional claim. After the congregation 13.5.2007, an FIR was registered under Section 295A IPC, which makes it a punishable offence against the people who, with deliberate and malicious intent to outrage the religious feelings in any class of Indian citizens, by words either spoken or written or by signs or by visible representations or in any other manner, insults or attempts to insult the religion or religious beliefs of the said class. After that, on 25.01.2012, the Government of Punjab filed a cancellation report about this incident of 2007. However, on 24/25.09.2015, sacrilegious posters were affixed, due to which massive resentment took place against the Sikhs and other people.

5. It would be appropriate to refer to some of the facts from the reply/status report dated 25.9.2023 filed by Senior Superintendent of Police, Faridkot in CRM-M-14326-2023, which read as under: -

“(ii) On 20.3.2015 to 22.3.2015, the diwan was held by Bhai Harjinder Singh Manjhi in the premises of Gurudwara Sahib. During the diwan several Dera Premi(s) present there got inspired by the religious sermons of Bhai Harjinder Singh Manjhi and as a result of which some of the followers (Premis) of the Dera Sacha Sauda sect removed the lockets of their Dera that they were wearing around their necks at the relevant time. This led to deepened resentment and animosity between the leading Dera Premis of the area and Sikh leaders. Notably, on 01.06.2015, the first incident of sacrilege took place in the same Gurudwara Sahib of Burj Jawahar Singh Wala where the diwan was held from 20.03.2015 to 22.03.2015. Pavan Saroop of Sri Guru Granth Sahib Ji was stolen from Gurudwara Sahib Singh Sabha located in village Burj Jawahar Singh Wala. On the next day i.e. 02.06.2015, FIR No. 63 dated 02.06.2015 was registered u/s 295-A, 380 IPC at Police Station Bajakhana, District Faridkot. The grievance amongst the Sikh sangat regarding the theft of Sri Guru Granth Sahib Ji from Burj Jawahar Singh Wala was so deep that the public also observed Punjab Bandh on 20.06.2015.

(iii) In the meanwhile, the movie MSG-2 [which was glorified in the sacrilegious posters affixed in Barqari and Buri Jawahar Singh Wala on 24/25.09.2015], was due to be released. Head of the Dera Gurmit Ram Rahim Singh was in the lead role in this movie. The movie was released on 18.09.2015 across India except in

Punjab where it was released subsequently. There was a specific threat and challenge in the sacrilegious posters found affixed in Burj Jawahar Singh Wala and Bargari that culprits would secure the release of film MSG-2 by all means. That Punjab Government had allowed the film MSG-2 to be released in Punjab on 24.09.2015. Release of the movie was considered by the protesters as one of the reasons to have left the culprits undeterred to commit the third incident of sacrilege on 12.10.2015.

- (iv) On 24.09.2015, sacrilegious posters were found affixed in the village of Burj Jawahar Singh Wala and Bargari, which further infuriate the Sikh sangat. Whereupon, case FIR No. 117 dated 25.09.2015 under sections 295-A IPC, PS Bajakhana, District Faridkot was registered. During investigation of abovesaid FIR No. 117/2015 no dera premi was joined investigation.
- (v) On 12.10.2015, at 4.00 am as challenged by the culprits in the sacrilegious posters found affixed at Bargari and Burj Jawahar Singh Wala, the third incident of sacrilege took place.
- (vi) At 9.30 am on 12.10.2015, SSP Moga (accused Charanjit Singh Sharma) was called back from leave and FIR No. 128 dated 12.10.2015 under sections 295 and 120-B of IPC, PS Bajakhana was registered. The action of the then SSP Moga ending short leave establishes that the matter had come to the knowledge of State machinery and the incident was considered of imminent importance for the law and order of the State.
- (vii) At 11.45 am on 12.10.2015 petitioner/accused Sukhbir Singh Badal who was out of Punjab, landed back at Chandigarh from Delhi. As he was Home Minister at the relevant time and under ordinary course of business it is not possible that he was not aware of the third incident of sacrilege before flying to Chandigarh and after landing at Chandigarh, as per his misleading statement during the course of investigation.
- (viii) At 12.47 pm on 12.10.2015, under a clandestine understanding with petitioner/accused Sukhbir Singh Badal and Parkash Singh Badal (deceased) to ensure suppression of protest by any means possible, accused Sumedh Singh Saini called accused Paramraj Singh Umranagal to send him to Bargari and then at Kotkapura by his verbal orders, despite senior officers of the concerned area being present at the spot. Communication continued between them until 10.49.38 pm on 12.10.2015. From here onwards the effective control of the situation at Bargari and Kotkapura for all purposes was with Paramraj Singh Umranagal.
- (ix) At 3.42 pm on 12.10.2015, under a clandestine understanding with Parkash Singh Badal and Sumedh Singh Saini despite being aware of emerging and prevailing law and order situation and in

order to facilitate the suppression of protest by any means possible, the task for which was given to accused Sumedh Singh Saini, petitioner/accused Sukhbir Singh Badal makes a surreptitious movement out of Punjab towards Gurgaon by Chopper. Notably, to keep his movement under the covers and to avoid drawing attention petitioner Sukhbir Singh Badal intentionally did not follow the protocol prescribed for the movement of Home Minister of the State”.

6. On October 16, 2015, the State Government appointed a Commission of Inquiry headed by Hon’ble Justice (Retd.) Zora Singh to inquire into the incident of sacrilege and consequent police firing on 14.10.2015 at Kotkapura and Behbal Kalan. On June 29, 2016, Justice (Retd.) Zora Singh Commission submitted its report and recommended that the investigators of the case relating to FIR No.192 dated 14.10.2015 investigate the occurrence of Ajit Singh having sustained injuries in police firing.

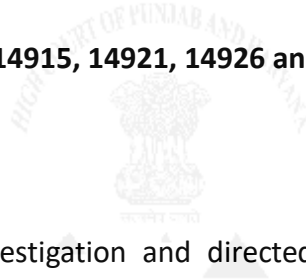
7. On 14.4.2017, the State Government constituted another Commission of Inquiry headed by Hon’ble Justice (Retd.) Ranjit Singh to inquire into the incidents of sacrilege and police firing at Kotkapura and Behbal Kalan.

8. The Commission of Inquiry proposed the registration of FIR under Section 307 IPC and other firearms-related offences. The Commission also proposed that investigation be conducted by some independent agency or some dependable police officer of senior rank from outside the district Faridkot or even outside the Bathinda zone. Further, it directed ballistic examination of weapons, which were allotted to the police officials present at the time of the firing incident.

9. After this, the statement of Ajit Singh, who had received a bullet injury in his thigh, was also recorded, and based on such information, the present FIR was registered for the offences captioned above, including for attempt to murder and use of firearms. After that, at one stage, the Government of Punjab transferred the investigation to the CBI but later withdrew such an order and constituted a Special Investigation Team (SIT) comprising senior police officers.

10. The SIT conducted a joint investigation of FIR no.192 dated 14.10.2015, which was related to the firing incidents of Kotkapura and Behbal Kalan, and also present FIR No.129 dated 7.8.2018, captioned above, in which the petitioners are apprehending their arrest. In the final report, the SIT absolved Bhai Panthpreet Singh and eight other protesters, while six police officials and one civilian were arraigned as accused in FIR No.129 dated 7.8.2018, i.e., the FIR captioned above.

11. One police officer and some other accused challenged the investigation of FIR No.192 dated 14.10.2015 and FIR No.129 dated 7.8.2018 by filing Civil Writ Petitions No.17459 and 17460 of 2019. Vide order dated 9.4.2021, a bench of this Court



disagreed with the investigation and directed re-investigation after forming a new Special Investigation Team comprising three senior IPS officers from the State of Punjab, with a clarification that none shall interfere with the working of the said SIT.

12. After that, the State Government constituted a fresh SIT of three IPS officers to investigate FIR No. 192 dated 14.10.2015 and FIR No.129 dated 7.8.2018. The SIT found the involvement of S/Sh. Sumedh Singh Saini, the then DGP, Punjab, Paramraj Singh Umrangal, the then Commissioner of Police, Ludhiana, Sukhminder Singh Mann, the then SSP, Faridkot and SI Gurdeep Singh, the then SHO, PS City Kotkapura, for creating false evidence to conceal their wrongdoings in lifting the peaceful protest by excessive and illegal use of force and sought prosecution of such officers.

13. In the present FIR, as captioned above, the SIT relied upon the eyewitnesses' account, CCTV footage, CDRs, inputs from local administration and their communications with the State administration and concluded that indiscriminate firing which had taken place at Kotkapura Chowk was the result of a conspiracy amongst S. Parkash Singh Badal, the then Chief Minister, Punjab (since expired), Sukhbir Singh Badal, the then Home Minister, Punjab, Sumedh Singh Saini, the then DGP, Punjab, Paramraj Singh Umrangal, the then Commissioner of Police, Ludhiana, who used illegal means to suppress a peaceful protest. The SIT in its investigation concluded as follows:-

- a. **As regards Sukhbir Singh Badal:**
He intentionally abandoned the law and order of the State on 12.10.2015 and went to Gurgaon, having knowledge of third incident of sacrilege and growing resentment amongst Sikh *Sangat* at Bargari and Kotkapura, to take up the plea of his absence from office to evade responsibility of the incident.
- b. **As regards Sumedh Singh Saini, Paramraj Singh Umrangal, SSP, Amar Singh Chahal, DIG, Charanjit Singh Sharma, SSP and Sukhminder Singh Mann, SSP:**
They were aware of the fact that their conduct in initiating use of force of peaceful protesters and reckless and devoid of legality and was an act of provocation to peaceful protesters.
- c. **As regards Paramraj Singh Umrangal:**
He entered into a conspiracy with Sumedh Singh Saini and passed illegal orders to abet excessive and illegal force against the peaceful protesters.
- d. **As regards Amar Singh Chahal, DIG, Charanjit Singh Sharma, SSP and Sukhminder Singh Mann, SSP:**
When the protesters were reciting NITNEM PAATH, they had the requisite knowledge that the protests were peaceful and did not require use of force to remove them from the Chowk and if force is used on the devotees, it would hurt their religious sentiments.
- e. **As regards Sumedh Singh Saini, Paramraj Singh Umrangal, SSP, Amar Singh Chahal, DIG, Charanjit Singh Sharma, SSP and Sukhminder Singh Mann, SSP:**

They were aware of the fact that their conduct in initiating use of force of peaceful protesters and reckless and devoid of legality and was an act of provocation to peaceful protesters. They had the knowledge that no valid orders from the then Duty Magistrate were obtained despite his presence at Katkapura Chowk before proceeding towards peaceful protesters.

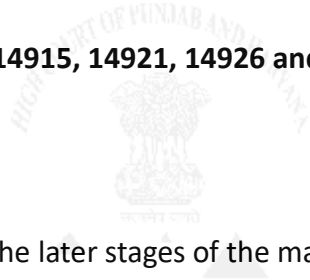
14. Upon filing a report under Section 173, CrPC, The concerned Judicial Magistrate 1st Class issued a notice of the challan to all the accused through the SIT. In these circumstances, the petitioners-accused moved to Sessions Court seeking anticipatory bail.

15. Learned Additional Sessions Judge disagreed with the contentions raised on behalf of the petitioners and dismissed the bail application. Learned Additional Sessions Judge *prima facie* concurred with the findings of the SIT that petitioners-accused conspired with each other and used force on peaceful devotees and did not find them entitled to anticipatory bail and dismissed their bail applications. In these circumstances, the petitioner(s) have approached this Court for grant of anticipatory bail.

REASONING:

16. It stays undisputed that the latest SIT, despite finding a *prima facie* case against the petitioners accused, chose not to arrest them and instead filed a police report without arresting them. When the concerned Judicial Magistrate had directed the investigator to produce the petitioners-accused, they apprehended arrest and filed an application(s) for anticipatory bail before the Sessions Court, which was dismissed. Thus, if the State was interested in arresting the petitioners during the pendency of the trial, then nothing could have stopped them from doing so because, till that time, the petitioners had no favorable order, including any interim order.

17. The SIT has already concluded the investigation, and they did not need the petitioners' interrogation. Furthermore, the evidence that was collected was based on eyewitness accounts and documentary or digital records. Thus, the question of custodial interrogation of the petitioners does not arise. The foremost parameter that requires consideration while granting anticipatory bail is the impact of the crime on the victim(s), society, and the State. In the present case, the magnitude of the crime was undoubtedly massive; still, the evidence collected against the petitioners is based on presumptions that the petitioners were involved in the conspiracy, and the evidence *prima facie* lacks evidence *qua* motive. It is not the case of the SIT that any accused was spearheading any campaign to hurt the religious feelings of the Sikh community and other people who have immense faith in Sikhism. Based on the quality of evidence, this Court cannot presume the existence of any conspiracy, and it is for the prosecution to



prove the same during the later stages of the matter, if such stage arrives.

18. The coordinate Bench had granted interim anticipatory bail to the petitioners vide orders passed on different dates. The State has opposed the continuation of interim bail primarily because the petitioners are very powerful political figures and even enjoy the status of celebrities, and if granted bail, they may influence the witnesses, which would hamper the trial. On this, counsel appearing for the petitioners submitted that they would have no objection whatsoever if this Court imposes any conditions to take care of such apprehensions and otherwise assured this Court that the petitioners are responsible citizens and undertake not to influence the witnesses or investigation in any manner. Based on these submissions, I am of the considered opinion that in case, at any stage, the prosecution gets any communication or evidence that the petitioners are influencing the witnesses or hampering the trial, then it shall be permissible for the State to file an application for cancellation of bail on that ground alone.

19. In the entirety of facts and circumstances and without referring to the evidence collected by the SIT in detail, so that it is misused by the people who propagate hate speeches and hurt religious feelings, it suffices to say that it is not a case for pre-trial incarceration of the petitioners, subject to their complying with the terms and conditions of the interim bail bonds, including the interim order dated 21.3.2023 or as applicable.

20. In **Mahdoom Bava v. Central Bureau of Investigation**, 2023:INSC:262 [Para 10-11], Law Finder Doc Id # 2165475, Criminal Appeal No.853 of 2023, decided on 20.03.2023, Supreme Court holds

[10]. More importantly, the appellants apprehend arrest, not at the behest of the CBI but at the behest of the Trial Court. This is for the reason that in some parts of the country, there seems to be a practice followed by Courts to remand the accused to custody, the moment they appear in response to the summoning order. The correctness of such a practice has to be tested in an appropriate case. Suffice for the present to note that it is not the CBI which is seeking their custody, but the appellants apprehend that they may be remanded to custody by the Trial Court and this is why they seek protection. We must keep this in mind while deciding the fate of these appeals.

[11]. In the case of the prime accused, namely Shri Mahdoom Bava, an additional argument advanced by the learned Additional Solicitor General is that he was involved in eleven other cases. But the tabulation of those eleven cases would show that seven out of those eleven cases are complaints under section 138 of the Negotiable Instruments Act, 1881 and three out of those seven cases are actually inter-parties and not at the instance of the Bank. The eighth case is a complaint filed by the Income Tax Officer and it relates to the nonpayment of TDS amount. The

remaining three cases are the cases filed by CBI, one of which is the subject matter out of which the above appeals arise.

[12]. In view of the aforesaid, we are of the considered view that the appellants are entitled to be released on bail, in the event of the Court choosing to remand them to custody, when they appear in response to the summoning order. Therefore, the appeals are allowed and the appellants are directed to be released on bail, in the event of their arrest, subject to such terms and conditions as may be imposed by the Special Court, including the condition for the surrender of the passport, if any.

21. Reference be also made to Sidharth v. State of UP, (2022) 1 SCC 676. Reference should also be made to paras 10 & 11 of Aman Preet Singh v. CBI, 2021 (4) RCR (Criminal) 108: (2021) SCC Online SC 941. Given the above, there is no need for an accused whom the Investigating agency did not arrest. Still, the trial court wants custody at the time of filing of the chargesheet. Suppose the trial court happens to be Sessions Court. In that case, it is permissible for such an accused to file a bail petition straightaway in the High Court, considering the concurrent jurisdiction of Sessions Court and High Courts under sections 438 & 439 CrPC.

22. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make case for bails, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of CrPC, 1973.

23. The petitioners shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

24. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

25. Given above, the above captioned petitions are allowed, and the interim order dated 21.3.2023 is made absolute. A photocopy of this order be placed on the file of each connected case.

Petitions Allowed. Pending application(s), if any, shall stand disposed of.

**(ANOOP CHITKARA)
JUDGE**

September 29, 2023

AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No