

IN THE COURT OF MONIKA GOYAL,
ADDL. SESSIONS JUDGE; SAS NAGAR MOHALI

BAIL APPLICATION CNR No.PBSA01002880-2020
CIS No.857-2020
DATE OF DECISION: 11.5.2020

Sumedh Singh Saini aged 61 years son of late Sh. R.C Singh, resident
of # 3048 Sector 20-D Chandigarh.

.....Applicant/Accused

versus

State of Punjab

First Application under Section 438 Cr.P.C for grant
of anticipatory bail, in case FIR No. 77 dated
6.5.2020 under Section 364, 201, 344, 330, 219 and
120-B of IPC P.S Mataur.

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Present:- Sh. APS Deol Sr. Advocate along with Sh. H.S Dhanoa Adv.,
and Sh. Harneet Singh Oberoi Advocate counsel for applicant
Sh. Sanjiv Batra Public Prosecutor along with Sh. Manjit Singh
Addl. P.P for the State assisted by Sh. Pardeep Virk Adv.,
counsel for the complainant.

ORDER

This order of mine shall dispose of bail application
moved on behalf of applicant-accused Sumedh Singh Saini, seeking
anticipatory bail under Sections 364, 201, 344, 330, 219 and 120-B of
IPC, by invoking the provisions of Section 438 Cr.P.C.

2. When notice of the bail application was issued,
learned Addl.P.P for the State appeared. Record of the trial Court was
requisitioned and the same has been received.

3. I have heard the learned counsel for the applicant-

accused, learned Addl. P.P for the State along with counsel for complainant and have also gone through the record.

4. FIR in this case was registered on the basis of the complaint made by Palwinder Singh Maultani, on the allegations that in the year 1991, his brother Balwant Singh Multani was picked up by a team of Chandigarh Police on 11-12-1991 from their then residence 1741 (First Floor), Ph. -7, Mohali and was taken to Police Station at Sector 17 Chandigarh under the orders of the then SSP Chandigarh Sumedh Singh Saini son of Romesh Chander Saini. His father and their family left no stone unturned to secure release of his brother. Every legal recourse was also taken by his father but to no use. Complainant further submitted that he filed Habeas Corpus petition and subsequently petition under 482 CrPC and fought for justice till his death, but due to influence and power wielded by Sumedh Singh Saini, they could not get justice and they lost all faith in law & order and judiciary. It may be mentioned here that towards the end of 2015, one Ex-Police Officer of Punjab Police namely Gurmeet Singh alias Pinky made startling disclosures about the inhuman torture and elimination of various persons by Sumedh Singh Saini and other Police officers. He also gave vivid details about the torture of his brother, which led to his death. A leading national magazine 'Outlook' in their issue dated 14 December 2015 carried these disclosures in detail and it was their main cover story, which also found prominent mention in various print and electronic media. Their family was shaken and in the shivers to know that Saini, in

his presence, facilitated and got inserted a wooden stick in the rectum of his brother who was also administered electric shocks on his testicles by Sumedh Singh Saini himself. They were hopeful that the law and order machinery of Punjab and Chandigarh will take it's cognizance, but nothing happened because of the error and influence of Sumedh Singh Saini and no action was taken. After retirement of Sumedh Singh Saini, their family again got some courage to resume their efforts to fight for justice. He contacted various people who had suffered alongwith his brother during that period and/or were conversant with the facts of the case. His friend Balwinderjit Singh son of Ajit Singh, resident of 2-D, Model House, Jalandhar, who is also their family lawyer and whom his father has been consulting in this matter till his demise in 2014, gave him important inputs and papers pertaining to the abduction and elimination of his brother Balwant Singh Multani. The reliable facts of the entire case, which he had been able to collect, are that his brother Balwant Singh Multani was employed as a JE with Chandigarh Industrial & Tourism Corporation (CITCO) and was residing at H. No. 1741(First Floor), Ph. 7, Mohali. On 11-12-1991, early in the morning at about 4:00 AM, a team of Chandigarh Police forcibly abducted him without providing any documents or reason for this illegal act. His family tried to find out about his whereabouts without success. His father, Late Sh. D. S. Multani, who was a serving IAS officer of Punjab cadre raised hue and cry in this regard. It may be mentioned here that after his abduction on 11-12-1991, Chandigarh Police team headed by

DSP Baldev Singh Saini under the instructions of Sumedh Singh Saini, took him along for raiding H. No. 1878, Housefed Complex, Ph. 10, Mohali, from where police took in custody Jaspreet Inderjit Singh and his father Manjit Singh in the presence of Sarabjeet Kaur and Gurtej Inderjeet Kaur, both daughters of Manjit Singh. Both Manjit Singh and Jaspreet Inderjit Singh were inhumanly tortured by police personnel headed by SI Satbir Singh and DSP Baldev Singh Saini to know the whereabouts of Devinder Pal Singh Bhullar son of Balwant Singh, r/o Dyalpura Bhaika (Disst. Bathinda) who was their relative. Complainant further stated that on 12-12-1991 at 2:00 AM, his brother Balwant Singh Multani, Manjit Singh and JaspreetInder Singh were all taken to Vill. Dyalpura Bhaika by police party headed by DSP Baldev Singh Saini and picked up Balwant Singh Bhullar, father of Devinder Pal Singh Bhullar in the presence of their neighbours and relatives. The same police team then descended on Village Rampura and took Kultar Singh into their illegal custody. This Kultar Singh was father-in-law of Devinder Pal Singh Bhullar. They were all taken to CIA Staff near Sector 11, Chandigarh and were in illegal custody of SI Satbir Singh, who was regularly getting directions and orders from Sumedh Singh Saini. On 13-12-1991, Balwant Singh Multani, Manjit Singh, Balwant Singh Bhullar & Kultar Singh were all taken to police Station Sector- 17 Chandigarh, where Balwant Singh Bhullar was taken to a separate room and interrogated. Manjit Singh was made to remove the clothes and given stick beatings. DSP Baldev Singh Saini and his team of

interrogators also gave electrical shocks on his ear-lobes, penis, testicles. JaspreetInder Singh was hung upside down from ceiling and given beatings which led to bleeding. During late night, the then SSP Chandigarh Sumedh Singh Saini himself went to the Police Station and all the five illegally detained persons, including his brother, were produced before him and were tortured in his presence and on the instructions of SSP Sumedh Singh Saini. That night, his brother Balwant Singh Multani and JaspreetInder Singh were detained in the same cell. His brother was in bad shape and has lost his mental balance due to intensive torture. It is pertinent to mention here that whereabouts of Balwant Singh Bhullar are still not known till date. A false and frivolous case was registered against Balwant Singh Multani after 2 days on 13-12-1991, vide FIR No. 440/91 U/s 212, 216 IPC and Sec 25 Arms Act, Sec 3&5 (TADA Act) at P.S.Sec.17, Chandigarh. He was shown to have been arrested in the said case on the basis of false general allegations by SI HarSahai Sharma I/c Police Station Sec. 17, Chandigarh and his team from near KC Theater, Chandigarh. All this was manipulated and fabricated under directions of Sumedh Singh Saini IPS SSP Chandigarh & his team of conspirers on account of his personal agenda, pertaining to FIR No.334, Dated 29-08-1991, lodged for an attempt made on his (Saini's) life by unknown persons. Police remand of Balwant Singh Multani was taken by SI HarSahai Sharma on false pretensions, again under the instructions of Sumedh Singh Saini and his co-conspirators. Balwant Singh Multani was thereafter inhumanly tortured personally by

Sumedh Singh Saini and his team comprising SI Harsahai Sharma, SI Jagir Singh, DSP Baldev Singh Saini and other police officials. He was so badly tortured that he could not even walk by himself and had a swollen face as disclosed by persons who had seen him in custody. Balwant Singh could not withstand the torture and succumbed to the injuries caused by the above accused persons. To cover up this ghastly act of having murdered Balwant Singh Multani, after having illegally abducted and inhumanly tortured him, the accused persons, in pursuance of a criminal conspiracy, forged and manipulated the document showing that SI Jagir Singh had taken Balwant Singh to Qadian (Police Disst. Punjab) for disclosing the whereabouts of some Navneet Singh and effecting his arrest. The police team is shown to have been led by SI Jagir Singh comprising SI Anokh Singh, ASI Kuldip Singh. HC Charanjit Singh (No. 1054), C. Sudesh Kumar (No. 2346). HC Inder Singh Mukh (No. 1145), C. Nirmal Singh (No. 2238), C. Shiv Kumar(No.548), C. Pradeep Kumar(No.2658), driver C. Raj Singh(No.3208) CIA-1, C. Balkar Singh (No. 506), C. Surinder Kumar(No. 2332) alongwith one section of CRP 2”Batallion. He further stated that at Qadian, Balwant Singh Multani was shown to have been kept in police station lock-up where the entire Chandigarh police and CRPF team also stayed on guard. Besides, Punjab Police Officials were also, obviously, guarding the police station. In such a situation, as per police version, the badly crippled Balwant Singh Multani, who had already undergone seven days of inhuman torture from 11-12-1991 was

shown to have escaped from custody and pursuant to that, the police indulged in fabricating another official document vis FIR No. 112/91 Dated 19-12-1991 U/s 223, 224 IPC Qadian (Police Disst. Batala). It is of great consequence that since then, whereabouts of Balwant Singh Multani are not known and he has since been conveniently shown as a proclaimed offender in the police records, both at Chandigarh as well as at Police Station Qadian. Further, the vengeance with which Sumedh Singh Saini and his coterie still proceeded against Balwant Singh Multani, who had since been eliminated by them, is exhibited from the fact that in FIR No. 334 dated 29-08-1991, PS Sector-17, Chandigarh relating to attempt on his life, Balwant Singh Multani was indicated as an accused and shown a proclaimed offender. The falsehood of the entire case was borne out from the fact that the 3 persons arrested and tried in the case were acquitted by the trial court. The judgment of acquittal has been upheld by the appellant court. His father Late Sh. D. S. Multani (IAS Retd.) pursued the matter pertaining to the illegal abduction and inhuman torture leading to the death of Balwant Singh Multani and the entire forged and fabricated / manipulated cover-up by the above mentioned accused. Due to his untiring efforts since 1991, a preliminary enquiry was conducted under the directions of Punjab and Haryana High Court, which led to the registration of FIR No. RC5 12008(S)0010 Dated 02-07-2008 U/s 120(B), 364,343,330,167 & 193 IPC by CBI at Chandigarh. The order passed by the Hon'ble High Court was challenged in the Hon'ble Supreme Court and the Hon'ble Court set

aside the order passed by High Court on the ground that the bench of the Hon'ble High Court passing the order lacked jurisdiction to deal with the case and as a consequence thereof, the FIR registered by CBI based on these orders was quashed only on technical grounds. Simultaneously, the Hon'ble Supreme Court has given us the liberty to take recourse to fresh proceedings. The Supreme Court however did not discuss and comment on the merits of the case. The findings in this regard are reproduced: "78. The multi-dimensional defective legal process adopted by the court below cannot be justified on any rational legal principle. The High Court was swayed away by considerations that are legally impermissible and unsustainable. 79. In view of the above, the appeals succeed and are accordingly allowed. The impugned orders challenged herein are declared to be nullity and as a consequence, the FIR registered by CBI was also quashed". As mentioned above, Hon'ble Supreme Court however, did not debar or restrain any legal action for the illegal acts amounting to offences under the Indian Penal Code(IPC) and other penal provisions, while specifically ordering as under: "(Para 80) However, it was open to the applicants who had filed the petitions under Sec. 482 Cr. PC. to take recourse to fresh proceedings, if permissible in law." The illegal acts of the above mentioned accused persons clearly disclose commission of cognizable offences as has also been established by the CBI during preliminary enquiry (PE) and therefore, it was the solemn duty of the police to lodge an FIR for the ghastly acts of the accused in terms of the specific directions of the SC.

In case of “Lalita Kumari v/s State of UP and others” from the totality of facts and circumstances detailed above, it is crystal clear that his brother Balwant Singh Multani was unlawfully abducted, inhumanly tortured and killed in custody by Sumedh Singh Saini and police personnel under his command. His body was disposed of in order to destroy evidence and further cover-up was manipulated by showing his escape from custody from Police Station Qadian in connivance with concerned Punjab Police, including the then SHO SI Jasvir Singh, MHC Harjit Singh, C. Savinder Singh (No. 1675), C. Anup Singh (No. 2900) AMHC Sukhjinder Singh, and other Police personnel. A request has been made that an FIR be lodged for the illegal abduction , inhuman torture, leading to elimination faked disappearance of his brother Balwant Singh Multani by the above named accused persons and strict legal action be taken against them.

5. Learned Counsel for the bail applicant had argued that the applicant is an IPS Officer of 1982 Batch. He got retired in June 2018 with outstanding service record. He had took participation in the counter terrorism and anti-insurgency operations, thus was on the target of anti-national and terrorist elements and an attempt to assassinate him was made in the year 1991, in which three security personnel were killed and the applicant was injured. His parental house was incinerated by the terrorist. Again an attempt was made upon his life in United Kingdom in the year 1998. He also led the police operations at Dinanagar where three Pak Fidayeens were killed. His life

is under imminent threat at the hands of anti-national and terrorist elements. Not only this, he was also involved in unearthing various Scams and Scandals. He was instrumental in investigating the major corruption network involving Ravi Sidhu the then Chairman of Punjab Public Service Commission. He submitted that the applicant was also instrumental in lodging FIRs against the present Chief Minister Captain Amrinder Singh regarding favouring few persons, tempering with the record of Punjab Vidhan Sabha, amassing disproportionate assets and specially case of City Center, Ludhiana. He also got lodged FIR against Mr. Bharat Inder Singh Chahal, the then Media Advisor of the present Chief Minister , who got his son enlisted in the rank of DSP in the Sportsman Quota and due to all these, he became eyesore for the political parties in the State of Punjab. He had even presented the report under Section 173(2) Cr.P.C in the cases against the present sitting Chief Minister and after his relinquishing the charge as Head of Vigilance Bureau, in the same very cases, cancellation reports were presented, which he had opposed by filing the application before the trial Court, but same was dismissed.

The counsel further argued that the applicant was apprehending his false implication in criminal matters, due to which he had preferred a petition under Section 482 Cr.P.C before the Hon'ble Punjab and Haryana High Court, where the Hon'ble High Court was pleased to grant him protection in all the matters, involved for the period, while the applicant remained as State Vigilance Head or

Inspector General of Police, Intelligence or Director General of Police, Punjab by affording him one week prior notice before effecting his arrest to enable him to have recourse to legal remedies.

Counsel had argued that all these circumstances showed the revengeful attitude of the Government of Punjab towards the applicant in order to harm him by implicating him in false cases. He submitted that the Government had made an agenda to arrest the applicant in cases pertaining to violence and use of force by the police at Kotakpura and Behbalpura on 14.10.2015. He submitted that different commissions have been appointed by the Government to indict persons responsible for the violent act. In the report, the present applicant has not been indicated on the criminal side, but still his name has been included in the names of officials against whom Departmental action will be taken on the basis of the report. He submitted that many Ministers in the Government want the present applicant behind bars and due to which, they time and again are making announcements in this regard. Thus, now the present Government is proceeding with the Vedanta against the present applicant. He further argued that when the Government could not succeed in its motive in the above mentioned cases, then it had started digging old cases and present is such an example, where the matter had occurred 29 years back and had already attained finality by the order of the Hon'ble Supreme Court, had now been re-opened. He submitted that the present applicant has been targetted because of his long fight against separators and terrorists

elements. He pointed out that the applicant was SSP Chandigarh at the time of alleged incident and brother of the complainant was arrested and produced before the Court, thus no offence is made out against the present applicant in the alleged FIR. The present act is only to tarnish the image of the applicant.

In detail, he enumerated that the FIR No.334/1991 Police Station Sector 17 Chandigarh was lodged after an attempt was made on the life of the present applicant. In that matter, Balwant Singh Multani was arrested and FIR No.440/1991 was lodged at Sector 17 Chandigarh, but on 19.12.1991, Balwant Singhy Multani escaped from police custody and a separate FIR was lodged in Police Station Quadian in this regard. Darshan Singh Multani, father of Balwant Singh Multani, filed a petition of Habeas Corpus before the Hon'ble High Court, but the same was dismissed and ultimately Balwant Singh Multani was declared as Proclaimed Offender. In FIR No.334/1991, eight persons were charge-sheeted, but the Court had acquitted them and even appeal against the acquittal was also dismissed by the Hon'ble High Court on 11.5.2007 and afterwards the Hon'ble High Court had Suo-moto taken cognizance in the same petition on 30.5.2007 seeking details of the Proclaimed Offenders in FIR No.334/1991 and in this Suo-moto petition, Darshan Singh Multani had preferred an application seeking whereabouts of his son Balwant Singh Multani and inquiry in this regard was handed over to CBI. Even accused Davinderpal Singh Bhullar also preferred an application regarding abduction of his father Balwant Singh

Bhullar and Manjit Singh. The enquiry was marked to CBI and ultimately FIR was lodged by CBI against the present applicant and other officers. The applicant approached the Hon'ble Supreme Court, where the FIR was quashed. He submitted that the matter had attained finality but now Palwinder Singh Multani brother of Balwant Singh Multani, had come with the false complaint after so many years since the demise of his father Darshan Singh Multani. He pointed out towards the offence under Section 364 IPC incorporated in the FIR alleging that when Balwant Singh Multani was arrested and produced before the Court in FIR, then no offence under Section 364 IPC is made out. He further pointed out that now the present FIR is based on news published in Outlook Magazine, wherein one Gurmit Singh alias Pinki had made reference to the present applicant. Counsel argued that the publication in the Magazine is only hear-say story. He further stated that Gurmit Singh alias Pinki afterwards had appeared before the PTC Channel and stated that he was pressurized to narrate the facts before the Outlook Magazine. He also stated that as the matter had already attained finality before the Hon'ble Supreme Court, thus the present FIR is constructive *resjudicata*, which in criminal law is recognized as protection against double jeopardy. He submitted that already the matter has been dealt with in detail by the Hon'ble Supreme Court and attained finality, where FIR on the same facts and circumstances stands quashed. He also submitted that the present Police Station Mataur do not have jurisdiction to register the present FIR, as the alleged Balwant Singh

Multani was arrested in a case and was produced before the Court in Chandigarh. He also pointed out that there is delay of 29 years in lodging the present FIR and no explanation has been given by the prosecution as to why this FIR has been lodged now. He put reliance upon the following judgments:-

- a) Ravinder Singh Vs. Sukhbir Singh and others
2013(3) SCC(Criminal) 891
- b) Om Parkash and others Vs. Ravi and others
2015(4) RCR (Cr1.) 721
- c) T.T Antony Vs. State of Kerala 2001(6) SCC-181
- d) Amitbhai Anil Chandra Sha Vs. CBI 2013(6) SCC
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6. Learned Public Prosecutor for the State along with counsel for the complainant had argued that attempt at the life of the present applicant was made in the year 1991 and FIR was lodged in this regard. The brother of the complainant i.e Balwant Singh Multani was forcibly abducted from his house in the early hours of the morning of 11.12.1991 by Chandigarh police under the instructions of the present applicant. Father of the complainant was serving as IAS officer and every attempt made by him to retrieve his son was unsuccessful. Afterwards Balwant Singh Multani was taken to the residence of one Jaspreet Inderjit Singh and Manjit Singh on the same very date and they were illegally arrested. All these persons were tortured to get the whereabouts of Davinderpal Singh Bhullar their relative. On

12.12.1991, they were taken to Village Dialpura Bhaika and Village Rampura, from where two persons were picked. All five persons were kept in illegal custody on 13.12.1991 and they were tortured by inhuman ways in the presence of present applicant. Afterwards on 13.12.1991, an FIR No.440/1991 under TADA Act was registered against Balwant Singh Multani. On 19.12.1991 Balwant Singh Multani was brutally tortured and he succumbed to his injuries at Police Station Sector 17 Chandigarh and to cover up his custodial death, documents were forged to show that Balwant Singh Multani was taken to Quadian Police District and in the presence of Police team and C.R.P team, he managed to escape despite his injuries and FIR was lodged against him and he was shown as Proclaimed Offender. He submitted that father of the complainant made efforts seeking justice for his son, due to which FIR was lodged by CBI, but the same was set-aside by the Hon'ble Supreme Court on technical ground, but he also pointed out that on 14.12.2015, Outlook Magazine carried out the exposure made by ex-police officer Gurmit Singh alias Pinki regarding inhuman torture and elimination of various persons by the present applicant and his associates, thus now the present FIR has been lodged.

Learned Public Prosecutor had argued on the delay occurred in lodging the present FIR by submitting that the crime never dies and if required investigation has to be conducted in prima facie cognizable offence. He relied upon the judgment of **Japani Sahoo Vs. Chandra Shekhar Mohanty (2007) 7 SCC 394**. He also submitted

that the delay in lodging the FIR is not fatal to the prosecution case as the matter pertains to the involvement of powerful person in uniform. The applicant is occupying highest position in the Police Department and has great influence. The complainant and his family have apprehension regarding their safety which led to the delay. He submitted that the complainant and his family were making efforts in the matter pertaining to disappearance of Balwant Singh Multani before various Courts but they have very little information, but the crime allegedly surfaced by the statement made by the ex-police officer in Outlook Magazine in the year 2015, thus the present case. He pointed out towards the case of **P.Vijayan Vs. State of Kerala (2010)2 SCC 398** and **Sajjan Kumar Vs. CBI (2010) 9 SCC 368** to emphasize that the delay is not relevant in the case where high profile persons are involved. He submitted that it is wrong that the present prosecution is malafide. He submitted that there is necessity to point out the specific allegation of malafide but no such contention has been raised by the applicant in his petition or even in his petition before the Hon'ble Supreme Court. He relied upon the judgment of **State of Haryana and others Vs. Bhajan Lal and others (1992) Supp.(1) SCC 335** and **Sheonandan Paswan Vs. State of Bihar (1987) 1 SCC 288** alleging that criminal prosecution is justifiable with adequate evidence does not get vitiated on account of political vendetta or malafide. He submitted that in the light of the decision in the case of **Lalita Kumari Vs. State of UP (2014) 2 SCC 1**, police officer is duty bound to

register the FIR on disclosure of commission of cognizable offence, thus the police on receipt of the complaint lodged the present FIR. He submitted that the Hon'ble Supreme Court while quashing the FIR registered by CBI had passed the order due to lack of jurisdiction, but at the same time had given liberty to the prosecution for further remedy permissible under law. He submitted that the Hon'ble Supreme Court had not decided the matter on merits, thus no double jeopardy.

Learned Public Prosecutor had stated that the present applicant is powerful and influential person, due to which witnesses will not be able to depose fearlessly and there is possibility of interference with the investigation process. He relied upon the judgment of Sanjeev R. Bhatt Vs. State of Gujarat in R/CRM.Misc. No.23368/2018. He submitted that other accused are also police men and present applicant commands loyalty from the persons who are still in service or who are witnesses to the alleged crime. There are chances that he may temper with evidence of present case. Investigation is still at its initial stage and it will lead to miscarriage of justice if he is enlarged on anticipatory bail. He submitted that story purported by the Chandigarh police and P.S Quadian, in the case of Balwant Singh Multani, is highly unbelievable. Regarding jurisdiction, he submitted that Balwant Singh Multani was abducted from his house at Phase 7 Mohali, thus the present police Station has jurisdiction to lodge the FIR. On query of this Court regarding timing of the lodging of FIR during out break of COVID-2019, learned Public Prosecutor had replied that

FIR is lodged as and when complainant had approached the police. Upon another query of this Court, he submitted that no action has been taken against Gurmeet Singh alias Pinki regarding revelation made by him. In regard with delay, he submitted that Darshan Singh Multani had died in 2014 and present applicant was holding post of Director General of Police Punjab till June 2018 and after that the present complainant was collecting material, due to which there is delay. Learned Public Prosecutor had relied upon the following judgments:-

- 1) **Sidharam Satlingappa Mhetre Vs. State of Maharashtra and others 2011(1) SCC- 694**
- 2) **State of Maharashtra Vs. Mohd. Sazid Hussain Mohd. S. Hussain 2007(4) RCR(Crl.) 581**
- 3) **Neeru Yadav Vs. State of UP, 2015(4) RCR(Crl.) 544**

Counsel for the complainant had brought to the notice of this Court towards the act and conduct of the present applicant. He submitted that if the present case has been a result of political vendetta, then the proceedings would have been initiated three years back when the present Government came into power. He submitted that way Balwant Singh Multani was arrest in FIR No.449/1991 shows fabrication and manipulation of documents . The act and conduct of the accused is only to cover up the murder of Balwant Singh Multani in police custody, due to which he was shown as escaped from police lock up. He also pointed out that all the persons, who were implicated in the case of Bomb Blast in Chandigarh, in which the applicant was injured,

stands acquitted. He pointed out that on the directions of the Hon'ble High Court, enquiry was conducted by CBI and CBI had found out serious discrepancies in the statement of Chandigarh police and staff of Police Station Quadian and in preliminary inquiry, CBI had found that FIR No.440/13.12.1991 was falsely lodged against Balwant Singh Multani. He pointed out that the Hon'ble Supreme Court had not gone into the merits of the case, rather quashed the FIR only on technical ground. He submitted that the applicant is notorious officer and present is not the only case of abduction and elimination of innocent persons, but he is already facing trial before CBI Court at New Delhi for abduction and elimination of innocent persons for personal enmity. He submitted that he is so influential that he had got the Investigating Officer of CBI declared hostile in that case. There are other prosecution witnesses, who had also preferred petition against the present applicant, had also turned hostile. He pointed out towards the case before the Hon'ble High Court, where there were allegations that the present applicant had tried to over-awe the Judge of the Hon'ble High Court. He submitted that the present applicant also had close relationship with one Ajit Singh Phoola a very notorious person and convict. Counsel also pointed out towards the letter written by Former Chief Justice of India, being Chief Justice of Punjab and Haryana High Court, highlighting false allegations against sitting Judge and also illegal phone tapping of the Judges of the Hon'ble High Court, which involved present applicant. He submitted that even in United Nation,

the present applicant is accused of violating the human rights. He highlighted the act and conduct of the present applicant being one of misusing the power, threatening witnesses and involved in tempering the evidence. He submitted that the complainant has lot of courage to make such a complaint against influential person. He also submitted that the present applicant is trying to flee away from Chandigarh to evade his arrest and has reached the Himachal border at 4 A.M despite curfew being imposed in Chandigarh, thus there is possibility of him running away from process of law and prayed that he may not be enlarged on bail.

7. Taking into account the facts and circumstances of the present case, this Court is of the considered view that there are serious allegations against the present applicant. As per FIR, he is alleged to be an instrumental in abducting Balwant Singh Multani, brother of the present complainant on 11.12.1991 in a case relating to investigation of the whereabouts of Davinderpal Singh Bhullar. As per FIR, Balwant Singh Multani and some other persons were picked up by the police and were subjected to inhuman torture in the presence of present applicant at Police Station Chandigarh. It is alleged that the brother of the complainant was in bad shape and had lost mental balance. On 13.12.1991, an FIR under IPC/Arms Act and TADA Act was lodged against him and he was arrested and was taken on police remand. He was after wards badly tortured and he succumbed to his injuries and only to cover up this murder, documents were manipulated

by showing that he was taken to Quadian (Police District) for disclosing the whereabouts of Navneet Singh, where he was shown to have been escaped from custody and another FIR was lodged at Police Station Quadian and since then whereabouts of Balwant Singh Multani are not known. Thus the present FIR has been lodged in the matter pertaining to the occurrence of the year 1991 i.e after 29 years.

There is no doubt that allegation made pertains to heinous crime, but as regards delay, the only explanation given by the Prosecuting Agency as well as complainant is that the present applicant was Director General of Police of the State of Punjab and was very influential due to which they could not take any action against him, but perusal of the judgment passed by the Hon'ble Supreme Court dated 7.12.2011 shows that it has been observed by the Hon'ble Supreme Court that after an attempt was made on the life of applicant, an FIR No.334/1991 Police Station Sector 17 Chandigarh was lodged and Balwant Singh Multani was inquired about one Davinder Singh Bhullar (convict in another Bomb Blast case) and was also arrested in respect of FIR No.440/1991 Police Station Sector 17 Chandigarh, but he escaped from police custody on 19.12.1991, for which another FIR was lodged in Police Station Quadian and father of Balwant Singh Multani namely Darshan Singh Multani had filed Criminal Writ Petition (Habeas Corpus) before the Hon'ble High Court in 1991 itself, which stands dismissed. Afterwards on 12.5.1993, Balwant Singh Multani was declared as Proclaimed Offender by the competent Court. It need to

mention here that no further action was taken by the family of Balwant Singh Multani for his disappearance after dismissal of the Habeas Corpus petition, but afterwards when the Hon'ble High Court had taken Suo-moto action in case bearing No.152/MA of 2007 on 30.5.2007 and had sought details of proclaimed offender, then Darshan Singh Multani father of Balwant Singh Multani had preferred miscellaneous application on 16.9.2007. It need to mention here that uptil this time, no petition has been preferred by any of the family member of Balwant Singh Multani since 1991. Subsequently, the Hon'ble High Court had directed the CBI to investigate the allegations of Darshan Singh Multani regarding his missing son and CBI had lodged FIR on 2.7.2008 which was quashed by the above mentioned order of the Hon'ble Supreme Court, even though liberty has been granted to the complainant/prosecution to take recourse to fresh proceedings, if permissible under law. It is pertinent to mention here that since 7.12.2011, no action has been taken by any family member of Balwant Singh Multani. It has been alleged by the complainant himself in his complaint that his father Darshan Singh Multani had died in 2014 but after his death, the present complainant had not taken any action in the disappearance of his brother. Counsel for the complainant had argued that he was apprehending security and safety of his family because the present applicant was holding post of Director General of Police Punjab, but it need to mention here that the present applicant was not holding the post of Director General of Police on 25.10.2015 as he stood

transferred and he had retired in June, 2018.

Complainant in his complaint had further alleged that because of the disclosure made by Gurmeet singh alias Pinki in Outlook Magazine in 2015, he came to know about the details of torture meted out to his brother and his subsequent elimination. Here, it is relevant to mention that Outlook Magazine had carried this issue on 14.12.2015 but the present complainant had not taken any action till 6.5.2020, specially when the present applicant had already retired in June, 2018. Only explanation given by counsel is that the present complainant was busy in collecting details of elimination of his brother, but perusal of the FIR shows that he is mainly relying upon the disclosure made by Gurmeet singh alias Pinki. No further facts have been mentioned in his complaint, thus no explanation is coming as to why the present complainant had kept mum for such a long time especially after June, 2018 and had chosen this time i.e Outbreak of COVID-19 when whole of the State of Punjab is under Curfew and had travelled all way from Jalandhar during this time to do an act of lodging the FIR in 29 years old case. COVID-19 had brought the strongest nations to their knees, but the present complainant, who has fear of life and safety of his family since 1991 had chosen this time to come out and lodge the FIR against the present applicant, when prior to this, he had not taken any step in regard with disappearance of his brother. Learned Public Prosecutor had argued that there is no limitation to take action in cognizable offence. The present Court completely agrees with

the contention of the learned Public Prosecutor, that if offence has been committed then guilty should be brought to justice, whether offence has been committed is matter of evidence, but still timing chosen by the complainant to appear at this time of high-distress raises serious doubt in the mind of this Court. It is pertinent to mention that whole of the police force is involved in now a days in managing outbreak of COVID-19. There are so many things to handle such as the patients of COVID-19, persons who are stranded in another States and migrant labourer stranded in the state of Punjab, but despite being busy, the State of Punjab had hastily lodged the present FIR in 29 years old case when already the matter had once attained finality by orders of the Hon'ble Supreme Court.

Further this Court had found very interestingly observation regarding smartness of Punjab Police as it had come on record that present applicant apprehending his false implication in many criminal cases had approached the Hon'ble High Court for protection, where the Hon'ble High Court was pleased to pass order dated 11.10.2018 giving protection to the present applicant from any arrest in the cases pertaining to incidents of the period while he held post of State Vigilance Head, Inspector General of Police, Intelligence, Punjab and Director General of Police, Punjab by giving him prior notice of one week, but it need to mention here that in this order dated 11.10.2018, no mention has been made regarding the post held by the present applicant being SSP Chandigarh This shows that the

prosecution is trying to take the benefit of this fact and had lodged the present prosecution, which pertains to the tenure of the present applicant as SSP Chandigarh, which had happened 29 years back.

It is a case of the complainant himself that his brother was picked up by the team of Chandigarh police on 11.12.1991 from Phase 7 Mohali and was taken to Police Station, Sector 17 Chandigarh and he was kept in Sector 17 Police Station with another detained persons Jaspreet Inderjit Singh in the same cell and case was registered against Balwant Singh Multani on 13.12.1991 and his police remand was taken by SI Harsahai Sharma and after this, he was tortured and had succumbed to his injuries. From these facts, it is prima facie clear that Balwant Singh Multani was kept in Police Station Sector 17 Chandigarh and was also produced before the Court and as per the complainant, he had succumbed to his injuries there, but in order to cover up this fact, it was shown that he was taken to Qadian Police District, where he alleged to have escaped. From these facts, it is clear that he was taken into valid custody by Chandigarh police since 13.12.1991 and was produced before the Court and Balwant Singh Multani was last seen at Sector 17 Chandigarh, when as per the Punjab Police, he had escaped from Police Station Qadian. It is alleged that his escape has been shown only to cover up custodial death, but still the offence alleged is committed either at Chandigarh or at Qadian. Thus, it is not understandable as to how the present case has been lodged at Police Station Mataur. As per prosecution, Police Station Mataur has

jurisdiction, since Balwant Singh Multani was taken away from his house at Phase 7 Mohali, but prima facie no offence had taken place at Phase 7 Mohali, when afterwards Balwant Singh Multani was formally arrested and produced before the Court at Chandigarh. Thus at the most, before making his arrest in FIR No.440/1991, Balwant Singh Multani was in illegal detention since 11.12.1991, but if it is violation of arrest rules, then it relates to the case registered by Police Station Sector 17 Chandigarh and can be acted upon only in that FIR. Thus, there is serious doubt regarding the jurisdiction of Police Station Mataur in the present case.

Other fact is about disclosure made by the ex-police official Gurmeet Singh alias Pinki in Outlook Magazine, where he had given details of the elimination of Balwant Singh Multani, but it need to mention here that this disclosure was made on 14.12.2015, but till date, no action has been taken by the Government of Punjab in any of the matter disclosed by Gurmeet Singh alias Pinki, even though he had mentioned about his own involvement in many of the incidents of police torture and elimination of innocent persons, thus now bringing of the present complaint only on the disclosure made by almost five years back doesn't seems to be genuine.

Thus, from the above discussion, it is clear that there are serious doubt regarding the maintainability of the present FIR at this juncture and chances are that it is an outcome of political vendetta as present applicant was instrumental in lodging FIRs against high ups,

but as the maintainability of the FIR is not a question in the present bail application, thus finding of this Court are confined only to the eligibility of the applicant to get anticipatory bail.

Apart from the technical aspect, the State of Punjab and complainant are opposing this application on the ground that the applicant had remained as Director General of Police and have great influence in the police force. He commands loyalty in the serving as well as retired police officials, thus, the prosecution has apprehension that he will interference in the investigation, threatening the witnesses and will temper evidence if not taken into custody.

Learned Public Prosecutor had emphasized on the fact that as there is justification of the present prosecution, thus it can not be vitiated only on the allegations of political Vedanta and also submitted that judgment passed by the Hon'ble Supreme Court was not on merits of the case, but was only on technical ground, thus there is no double jeopardy. In this regard, it is hereby held that the present is not a trial but bail application only, thus such argument has no relevance.

Counsel for the complainant had highlighted the act and conduct of the present applicant, where he submitted that if the present case is a result of political Vedanta, then immediatly when new Government came into power in the year 2017, present FIR would have been lodged, but that is not so. There is no merit in this argument. It is not out of way to mention that attempts were already made in this

regard, which prompted the applicant to approach Hon'ble High Court as is clear from order dated 11.10.2018. Moreover timing of lodging FIR raises a finger towards vindictive nature of prosecution.

He also pointed out towards other cases lodged against the present applicant putting emphasis on one trial faced by the applicant before CBI Court New Delhi pertaining to the case of 1994, which has been transferred to New Delhi by the Hon'ble Supreme Court. Counsel had pointed out towards the witnesses, who had turned hostile in that case. In this regard, it need to mention here that other case before CBI Court New Delhi had no concern with the proceedings of the present application as upto now there is no conviction in that case and accused is innocent till declared guilty. Also, this Court is unable to go into the fact that some of the key witnesses of that case had turned hostile as present Court has no means to ascertain that the key prosecution witnesses in that case had turned hostile due to the influence of the present applicant.

Counsel had highlighted the relationship of the present applicant with one convict Ajit Singh Phoola and the named his brigade, who had tried to overawe the Hon'ble High Court Judge. It need to mention here that this Court can not determine the antecedents of Ajit Singh Phoola and as regards the order dated 22.12.1995 passed by the Hon'ble High Court Annexure R-3, it is hereby submitted that the Hon'ble High Court even though there are allegations that there were attempt to overawe the Court but justice has prevailed and a strong

judgment has been passed by the Hon'ble High Court, which clearly shows that judiciary is always there to meet the ends of justice. Further that order was passed in the year 1995 and now the applicant had already retired. Also in detailed discussion above, action of Prosecuting Agency is already under serious cloud of suspicion.

Learned Counsel had highlighted the communication between Hon'ble Chief Justice of Punjab & Haryana High Court and Hon'ble Chief Justice of India, but it need to mention here that it is privileged communication, which cannot be taken into account in the present case. He also pointed out towards the phone tapping of the Judges of the Hon'ble High Court, but it need to mention here that even if the present applicant is involved in any such act, that has no bearing to the facts and circumstances of the present case. There are allegations that he was termed as human violator in the United State, but it need to mention here that all these alleged acts and conducts of the applicant can be gone into when detailed evidence is led and can't be gone into at the stage of anticipatory bail.

Learned P.P had relied upon the judgments of Sidharam Satlingappa Mhetre's case(Supra), Mohd. Sazid Hussain's case(Supra) and Neeru Yadav's case(Supra) to show that the Court need to take into account the nature of the accusation, severity of punishment, apprehension of tempering with the witnesses prima facie satisfaction of the Court in support of the charge, antecedents of the applicant, reputation of the applicant and possibility of the applicant

fleeing from justice, likelihood to repeat similar offences and impact of the grant of anticipatory bail on the large number of public while granting bail. In this regard, it is hereby submitted that the present applicant had already retired from his post as Director General of Police, so there are no chances of him repeating the similar offence. He is well established in society and it is difficult for such a person to flee from justice and condition can be imposed by taking his passport so as to avoid him fleeing the country. Further already he is facing trial before CBI Court New Delhi. Nature and gravity of the accusation is very high in present case, but matter pertains to decades old case, thus only gravity of offence after almost 30 years can't be a ground to deny anticipatory bail, when applicant was always available in public eye since that time. Now as regards chances that applicant can temper with evidence and influence the witnesses, appropriate conditions can be imposed to restrain him and prosecution always can come for cancellation of bail if any condition is violated. Thus, even though allegation of heinous crime is made against the applicant, but definitely present case is a very old case. Also the allegations levelled by the complainant will be dealt with after the prosecution had lead detailed evidence. He is not a previous convict and grant of bail will not in any way effect the large number of people. Moreover already once FIR on similar facts stands quashed, thus now custodial interrogation of the present applicant is not required, but there is no doubt that the applicant had held the post of Director General of Police and had remained influential throughout his tenure

and he might have loyalists to him, who are serving at different posts in Police Department, but still this matter is more than 29 years old and when he is ready to cooperate with the investigation, then there is no reason to take him into custody to investigate especially when the Hon'ble Supreme Court and the Hon'ble High Court are trying their best to de-congest the jails due to the outbreak of COVID-19. Purpose of investigation will suffice if the applicant is directed to join investigation and to cooperate properly. Thus present is a fit case where he is entitled to anticipatory bail. Counsel for the complainant also pointed out towards the news reports where he submitted that the present applicant tried to flee from Chandigarh to evade his arrest during the curfew. In this regard, it is hereby submitted that the learned Public Prosecutor had given written arguments, but he had not mentioned any such act of the applicant in his submissions and it is not believable that the present applicant had travelled from Chandigarh upto the Himachal Border without being intercepted anywhere by the Punjab Police. Allegations made by the complainant are only on news reports. Nothing in this regard has been brought by the Public Prosecutor for the State, but still in order to restrain the applicant from leaving his place of residence, adequate conditions need to be imposed. Consequently in view of the above discussion, the present application is allowed and the accused/applicant is directed to join investigation by himself appearing before the Investigating Officer within 7 days from today and in that event he be released on anticipatory bail on his furnishing personal

bonds in the sum of Rs.50,000/- with one surety of the like amount subject to the following conditions :-

- a) that he shall properly to cooperate with the Investigating Officer;
- b) that he shall surrender his passport before the Investigating Officer and shall not leave the country without prior permission of the court;
- c) that he shall 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.
- d) That till the lock-down period, he will remain in his house and will not leave it in any circumstances except in case of medical emergency and whenever he is called to join investigation

The IO is directed to join the accused/applicant in investigation by maintaining the social distancing and by following all the precautions mentioned for prevention of Corona Virus/Covid-19 and in that event, he shall be released on anticipatory by IO/SHO on his furnishing personal bonds in the sum of Rs.50,000/-, but after the removal of the Curfew/lock down in the State of Punjab, the accused/applicant shall furnish the surety bonds in the sum of Rs.50,000/- to the satisfaction of the IO/SHO. IO will sent the bail bonds and surety bonds as well as undertaking to the Illaqa Magistrate

concerned. The present bail application is allowed accordingly. Police record be returned. File of this bail application be sent to the Court concerned.

Announced/11.5.2020

(Monika Goyal)
Addl. Sessions Judge
SAS Nagar Mohali
Uid No.PB0439

* Balwinder Singh
Stenographer Grade I

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Present:- Sh. APS Deol Sr. Advocate along with Sh. H.S Dhanoa Adv., and Sh. Harneet Singh Oberoi Advocate counsel for applicant Sh. Sanjiv Batra Public Prosecutor along with Sh. Manjit Singh Addl. P.P for the State assisted by Sh. Pardeep Virk Adv., counsel for the complainant.

Arguments heard. Vide my separate detailed order of even date, the present bail application has been allowed of as per the detailed enumerated therein. Police record be returned. File of this bail application be sent to the Court concerned.

Announced/11.5.2020

(Monika Goyal)
Addl. Sessions Judge
SAS Nagar Mohali
Uid No.PB0439

* Balwinder Singh
Stenographer Grade I

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