



CRM-M-12072-2025(O&amp;M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

CRM-M-12072-2025(O&amp;M)

Date of decision: 12.05.2025

Gurcharan Singh and others ..... Petitioners

Versus

State of Punjab and another ..... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Vinod Ghai, Senior Advocate assisted by  
Mr. Arnav Ghai, Advocate and  
Mr. Dhruv Trehan, Advocate for the petitioners.

Mr. T.P.S. Walia, AAG, Punjab.

Dr. Buta Singh Bairagi, Advocate for respondent No.2.

**MAHABIR SINGH SINDHU, J.**

Present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), for quashing of FIR No.71 dated 19.09.2023 (P-1), under Sections 302 and 120-B of Indian Penal Code, 1860 (for short 'IPC') (Section 212 IPC added later on) and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Mehna, District Moga; for quashing of final report under Section 173 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') dated 17.12.2023 (P-2) as well as supplementary challan dated 13.03.2024 (P-8) and for quashing of order dated 31.07.2024 passed by learned Additional Sessions Judge, Moga vide which charges (P-13) were framed under Sections 302, 212 and 120-B IPC and Section 25 of Arms Act, 1959.

2. Above FIR was registered on the statement made by Karamjeet Kaur @ Navdeep Kaur Gill wife of deceased Baljinder

**CRM-M-12072-2025(O&M)**

Singh @ Balli with the allegations that two unknown persons committed murder of her husband by firing gunshots. She further alleged that her husband, while he was being taken to Medicity Hospital, Moga, stated that assailants were sent by the present petitioners.

3. Contends that from final report, it is evident that petitioners are suspected by *de facto* complainant, but they were not present at the time of alleged occurrence; nor any incriminating material has been found by the Investigating Agency regarding their complicity.

3.1 Further contends that during investigation, it is found that two shooters, namely, Krishan Kumar and Gurwinder Singh @ Kaka, allegedly committed murder of Baljinder Singh on asking of Arshdeep Singh @ Arsh Dalla and who posted the incident on facebook, while taking the responsibility of alleged murder.

3.2 Also contends that investigation was handed over to Special Investigation Team (for short 'SIT'), which arrived at conclusion that there is no culpability of present petitioners in the alleged crime and report in this regard had been submitted on 09.12.2023 (P-3).

3.3. While referring to opinion dated 15.12.2023 (P-4) by Deputy District Attorney (Legal) (for short 'DDA'), Moga, learned Senior Counsel contended that in view of the inquiry report dated 09.12.2023 (P-3), an application under Section 169 of Cr.P.C. was

**CRM-M-12072-2025(O&M)**

proposed to be filed by the prosecution for getting the petitioners released from custody, but the same did not materialize.

3.4 Vehemently contended that Superintendent of Police (Investigation) also gave his comments dated 15.12.2023 (P-5) to the effect that he was in agreement with the inquiry report dated 09.12.2023 (P-3) submitted by the SIT as well as opinion of DDA (P-4).

3.5 Yet again contended that petitioner No.4, namely, Sukhvir Singh @ Seera filed CRM-M-20132-2024, for seeking bail pending trial, wherein Mr. Gursharanjit Singh, Superintendent of Police, Moga, filed an affidavit dated 28.08.2024 (P-9) before the Coordinate Bench, deposing that no evidence was available to connect the petitioners with the alleged offence and police had already moved an application for their discharge.

3.6 Again contended that in view of the facts mentioned in the affidavit dated 28.08.2024 (P-9), petitioners Hardeep Singh Gill, Jagjit Singh and Sukhvir Singh were granted bail pending trial by the Coordinate Bench on 29.08.2024 (P-10).

3.7 Further contended that although, Investigating Agency concluded that petitioners had no role to play in the commission of alleged offence, but learned trial Court without appreciating the material on record, dismissed the application for discharge vide order dated 31.07.2024 (P-13).

**CRM-M-12072-2025(O&M)**

3.8 Lastly contended that continuation of criminal proceedings against the petitioners would be an abuse of process of law; hence petition deserves to be allowed.

4. *Per contra*, learned State counsel while opposing the prayer submits that application for discharge of petitioners has rightly been dismissed by learned trial Court vide order dated 31.07.2024; hence the same does not warrant any interference by this Court. Further submits that there is sufficient material on record to connect the petitioners with commission of alleged crime along with other co-accused; thus their complicity is well apparent.

5. Learned counsel for the complainant also vehemently opposed the prayer while submitting that trial Court finding a *prima facie* case against the petitioners as well as other co-accused, framed charges vide order dated 31.07.2024 and as such, petition is liable to be dismissed.

6. Heard learned counsel for the parties and perused the paper-book.

7. There is no quarrel that as per initial version, all the petitioners were specifically named by *de facto* complainant with the allegations that her husband (now deceased), when he was being taken to Medicity Hospital, Moga, disclosed that shooters were sent by the present petitioners.

8. Also transpires that learned trial Court, after hearing both sides and upon consideration of the material available on record, came to the conclusion that, there is sufficient material on record to proceed

**CRM-M-12072-2025(O&M)**

against the petitioners while passing the impugned order dated 31.07.2024 and relevant part of the same reads as under:-

*“Finding a prima-facie case against accused persons under Section 120B, 302 read with section 120B and 212 of IPC and 25 of Arms Act, charge sheet has been framed against the accused persons accordingly, to which they have pleaded not guilty and claimed trial.*

*Since, accused Varinder Singh @ Bimi son of Jarnail Singh resident of Maur Kalan, District Bathinda has been produced through V.C, copy of charge sheet and plea to contest the charge pertaining to the matter in hand are ordered to be sent to the Superintendent, Central Jail, Ferozepur, to his official e-mail id through the official e-mail id of learned District and Sessions Judge, Moga [dsj.moga@aij.gov.in](mailto:dsj.moga@aij.gov.in) for supplying the same to the accused, namely Varinder Singh @ Bimi, now in Central Jail, Ferozepur and the Jail Superintendent has been directed to forward duly signed plea of the accused, named above, and the charge sheet to the court of the undersigned after attestation from his office as required under Rule 8.8.2 of the Rules of Video Conferencing for Courts.”*

9. Thereafter, another application filed at the instance of petitioners seeking direction to investigating officer to move an application under Section 169 Cr.PC was also dismissed by learned trial Court vide order of even date i.e. 31.07.2024, while observing as under:-

*“5. Solely for the reason that the shooters, namely Krishan Kumar @ Baba and Gurinder Singh @ Kaka got recorded in their disclosure statement to the police that Sukhvir Singh @ Seera, Hardeep Singh @ Deepu, Jagjit*



CRM-M-12072-2025(O&M)

*Singh @ Jagga and Gurcharan Singh Sidhu had no role to play in commission of murder of Baljinder Singh @ Balli or that call details record of their mobile numbers from 17.09.2023 to 19.09.2023 did not reflect any conversation of Sukhvir Singh @ Seera, Hardeep Singh @ Deepu, Jagjit Singh @ Jagga and Gurcharan Singh Sidhu having taken place with the shooters, named above, no such definite conclusion can be drawn that they are innocent and they have not played any role or they have not conspired to murder Baljinder Singh @ Balli. Thus, no ground is made out for issuing any such direction to the investigating officer for moving application under section 169 of CrPC.*

6. *Then, there is no provision in the Code of Criminal Procedure or The Bharatiya Nagarik Suraksha Sanhita, 2023, whereby any such direction can be issued by the Court to the investigating officer to move any such application under section 169 of CrPC for release of any of the accused persons from custody, sent to face trial.*

7. *As admitted in the application itself, challan/ police report under section 173 of CrPC and supplementary challan/ police report under section 173(8) of CrPC have already stood presented in the Court. Thus, any such stage of moving an application under section 169 of CrPC by the investigating agency has already bygone.*

8. *Then, a separate application for discharging the accused persons, namely Sukhvir Singh @ Seera, Hardeep Singh @ Deepu, Jagjit Singh @ Jagga and Gurcharan Singh Sidhu has been moved on record. Thus, the appropriate option with these accused persons, named above, has also been availed by them.*

9. *The present application seems to have been filed with the malafide and ulterior motive to delay the proceedings.*



CRM-M-12072-2025(O&M)

*10. Thereby, there being no merit in the application, the same deserves dismissal and it is ordered accordingly.”*

10. The matter does not rest here. Again on 22.08.2024, third application was moved by the Officer In-charge, Police Station Mehna, seeking discharge of present petitioners, knowing fully well that charges have already been framed by learned trial Court on 31.07.2024. The application was opposed by the prosecution agency i.e. APP and learned trial Court after hearing both sides, dismissed the same, observing that there is sufficient material to proceed against the accused who have already been charge-sheeted. Relevant part of the order is extracted as under:-

*“7. Thus, there is sufficient material/evidence on record to form prima-facie opinion that the offences punishable under Section 120-B, 302 read with section 120-B of IPC and 212 of IPC and section 25 of the Arms Act have been made out against the accused persons, sent to face trial.”*

11. It is worth notice here that Inspector/SHO Arshpreet Kaur Grewal, (Member of SIT), vide General Diary No. 25 dated 21.08.2024, Police Station Mehna, specifically recorded that she was pressurized by SSP Sh. Ankur Gupta and SP(D) Sh. Bal Krishna Sahib Moga to file an application for discharge of present petitioners. For reference, relevant extract of the above G.D. No. 25 is reproduced as under:-

*"In this respect, Hon'ble SSP Shri Ankur Gupta and SP(D) Shri Bal Krishna Sahib Moga ji verbally instructed Me INSP/SHO that in the said case Sukhveer Singh alias Seera Gurtak Singh, Hardeep Singh alias Deepu son of*

**CRM-M-12072-2025(O&M)**

*Jaspal Singh, Jagjit Singh alias Jagga son of Gurnek Singh Resident Dala and Gurcharan Singh alias Sidhu son of Buta Singh resident Thakanbad District Moga Supplementary challan under 173(8) should be filed in the Hon'ble Court under 173(8) and an application for discharge of the accused in the said case should be given in the Hon'ble Court. A notice is filed.”*

12. Apart that, for the purpose of deciding this quashing petition, suffice it to say that there is sufficient material on record to proceed against the petitioners. The deceased while being taken to Medicity Hospital, Moga clearly stated before *de facto* complainant that assailants were sent by present petitioners; thus, the same would virtually amount to dying declaration; but this Court will refrain from making any definite observation in this regard.

13. The argument raised by learned Senior counsel that in the bail application (CRM-M-18867-2024), an affidavit was filed by Superintendent of Police, Moga to the effect that petitioners were innocent, would also pale into insignificance when the charges had already been framed in the matter and trial was going on for prosecution evidence.

14. *A fortiori*, there are serious disputed questions of facts, which, of course, cannot be gone into by this Court while exercising jurisdiction under Section 528 BNSS, like a mini trial, in such case, where allegations are very serious.



**CRM-M-12072-2025(O&M)**

Hence, in such a scenario, without commenting any further, lest it may prejudice the rights of either parties, this Court is not inclined to interfere in the matter, at this stage.

15. In view of the above, there is no option, except to dismiss the petition.

16. Ordered accordingly.

Pending application(s), if any, shall also stand disposed off.

**12.05.2025**  
SN

**(MAHABIR SINGH SINDHU)**  
**JUDGE**

Whether speaking / reasoned :    Yes            No

Whether Reportable :                Yes            No