

**In the Court of Rajwinder Kaur,
Additional Sessions Judge, Kapurthala
(UID NO.PB0121)**

CNR No.
PBKP010027972020



Case No. BA/1342/2020

Presented on : 10-07-2020

Registered on : 13-07-2020

Decided on : 30-07-2020

Joginder Singh @ Goga, aged 65 years, son of Avtar Singh, resident of Akala, Police Station Bholath, District Kapurthala.

.....Applicant-accused.

Versus

State of Punjab

.....Respondent

*F.I.R.No.49 of 02.07.2020
Under Sections: 10(a),10(b), 11,13(1), 17 The
Unlawful Activities(Prevention) Act, 1967
(Amendment 2012)
Police Station: Bholath, District Kapurthala.*

Application for bail under Section 439 Cr.P.C.

Present: *Shri Rajiv Puri*, Advocate, Id. Counsel for the applicant/
accused.
Shri Shailender Gill, learned Addl.PP for the State.
DSP Jatinderjit Singh, Sub Division, Bholath.

ORDER

1. **Joginder Singh @ Goga** (*accused-applicant*) son of Avtar Singh, filed instant application for the grant of concession of bail under

Rajwinder Kaur, Additional Sessions Judge, Kapurthala UID No.PB0121

section 439 Cr.PC, on the ground that he is innocent, and he has been falsely implicated in this case only on the basis of suspicion. There is no direct or indirect evidence to connect him with commission of said crime. He is an old age person, suffering from major ailments (medical certificate attached). Now, he is in judicial lock up. Since, completion of investigation, presentation of challan and conclusion of trial shall take a long time. Thus, prayed for bail. (*Application is duly supported with affidavit*).

2. Notice of the application was given to the state through Id. Addl.PP for the State who appeared and filed reply to the application alongwith affidavit duly sworn of DSP Jatinderjit Singh, Sub Division Bholath (Investigation officer).

3. Police record requisitioned. Produced. Perused.

4. I have heard **Shri Rajiv Puri, Advocate** learned counsel for accused-applicant, **Shri Shailender Gill, Addl.PP** for the State duly assisted by **Shri Jatinderjit Singh, DSP, Sub Division, Bholath**, and have also gone through the police file.

5. **Shri Jatinderjit Singh, DSP, Sub Division, Bholath** suffered statement that on 02.07.2020 the arrest of Joginder Singh Gujjar @ Goga was effected. Till today, neither any evidence to connect accused that he is the member of the **Sikhs For Justice** or any other organization declared to be unlawful association by the notification dated 10.07.2019, by the Ministry of Home Affairs, Government of India, has been come into light. No evidence that Joginder Singh ever

participated or propogated the activities of Gurpatwant Singh Pannu, has came into notice, till today and investigation is going on to establish the same. He further submitted that application was given to Bank officials to collect the accounts of Joginder Singh but same has not received so far, and till today, except for hearsay evidence, no substantive evidence against Joginder Singh Gujjar @ Goga, has been came on police file. He further submitted that he has already filed duly sworn affidavit to this effect alongwith reply to this bail application.

6. Law was set into motion on the basis of secret information received by ***Jatinderjit Singh, PPS, Deputy Superintendent of Police***, Sub Division, Bholath to the effect that from reliable sources, he came to know that one ***Joginder Singh Gujjar @ Goga*** son of Avtar Singh, based in Italy, arrived in India in February, 2020. Said ***Joginder Singh Gujjar @ Goga*** remained active member of organization “Sikhs For Justice”(SFJ), which was declared to be an ‘unlawful organization’ by MHA(Gol) in July, 2019. It is also learnt that ***Joginder Singh Gujjar @ Goga*** at the behest of Gurpatwant Singh Pannu, based in U.S.A. with whom he is in regular contact, is providing financial assistance to ***S.F.J*** operatives based in India and abroad. ***Joginder Singh Gujjar @ Goga*** had visited Geneva, Switzerland in November, 2019 to attend and actively participate in the anti-India convention organized by S.F.J. It was also learned that ***Joginder Singh Gujjar @ Goga*** alongwith Gurpatwant Singh Pannu, was actively prapogating secessionist activities aimed at the division of India under the banner of ‘Referendum

2020' in Punjab as well as abroad. The above stated organization has been declared as "unlawful association" vide notification dated 10th July, 2019 by the Ministry of Home Affairs, Government of India. Thus, instant case under section ***10 A&B, 11,13(1), 17 The Unlawful Activities(Prevention) Act, 1967 (Amendment 2012)*** was got registered.

7. ***Shri Rajiv Puri, Advocate***, learned counsel for accused-applicant, has vehemently argued that instant case was got registered on the basis of secret information. But, there is neither any direct nor indirect evidence to connect the accused with commission of said crime. Once, the allegations are hearsay, so to fortify the same there should be some substance. There is not even a single document produced nor taken into possession to show that ***Joginder Singh Gujjar @ Goga*** (applicant/accused) remained as member of Sikhs For Justice. No photograph has been produced in the Court to showing ***Joginder Singh Gujjar @ Goga*** alongwith Gurpatwant Singh Pannu, nor the same is on the police file. Assuming for the sake of arguments, if there is any photograph, it does not mean that applicant/accused was propogating secessionist activities against the Country. Till today, no bank account for providing financial assistance to S.F.J organization operative from abroad or in India has been placed on record. So, mere allegations in FIR without any substance are not sufficient to put a person behind the bars. Applicant/accused is more than 65 years old, heart patient and had undergone heart surgery (medical proof annexed with application) is more

prone to pandemic disease Covid-19, especially when some undertrials/convicts were found positive in the jail. Thus prayed for bail.

8. On the other hand, ***Shri Shailender Gill, learned Addl. P.P. for the State*** duly assisted by ***Shri Jatinderjit Singh, PPS***, DSP, Sub Division, Bholath, has fairly conceded that except for the allegations levelled in the FIR on the basis of secret information, there is no document to connect that accused/applicant was member of S.F.J. Organization, or to consider his active participation in commission of offence under the Act.

9. After having considering the submissions put forth by learned counsel for both the parties, and keeping in view the episode of crime, without commenting upon the facts of the present case, keeping in view the statement suffered by Shri Jatinderjit Singh, PPS, DSP, Sub Division, Bholath, District Kapurthala, and perusal of file, as the applicant/accused is old aged man of 65 years, heart patient, is in jail since 2.7.2020. Thus, he is not required for the purpose of custodial interrogation. Moreover, he has already spent sufficient period of incarnation. no useful purpose shall be served by detaining him behind bars for indefinite period, especially in the prevailing situation of pandemic disease Covid-19, bail application filed on behalf of ***Joginder Singh Gujjar @ Goga (applicant-accused)*** is ***allowed*** and, he is ordered to be released on bail, on furnishing bail bonds in the sum of Rs.1,00,000/- with two sureties in the like amount, to the satisfaction of the learned Illaqa Magistrate/Duty Magistrate, subject to conditions that:-

1. That the applicants-accused will not tamper with the prosecution evidence in any manner.
2. That the applicant-accused will not leave the limits of India without prior permission of the court.
3. That the applicant-accused will surrender his passport in the court.
4. That the applicant-accused will be available to the investigating agency as and when called, and will attend the court on each and every date of hearing.

10. Police record returned. Copy of order be sent to the court of learned Illaqa Magistrate/Duty Magistrate, for compliance and bail application file be consigned to the record room.

Pronounced in open Court.
Dated: 30.07.2020
(Nirlep Kaur)

(Rajwinder Kaur),
Addl.Sessions Judge,
Kapurthala.
(UID No.PB0121)

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Joginder Singh @ Goga Vs. State

Present: *Shri Rajiv Puri*, Advocate, Id. Counsel for the applicant/
accused.
Shri Shailender Gill, learned Addl.PP for the State.
DSP Jatinderjit Singh, Sub Division, Bholath.

Arguments heard. Vide my separate detailed order of even date, the bail application filed by *Joginder Singh @ Goga* (*accused-applicant*) has been **allowed**, as detailed therein. *Police record returned*. Copy of order be sent to the court of learned Illaqa Magistrate/Duty Magistrate, for compliance and bail application file be consigned to the record room.

Pronounced in open Court.
Dated: 30.07.2020
(Nirlep Kaur)

(Rajwinder Kaur),
Addl.Sessions Judge,
Kapurthala.
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