

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

**Crl. Misc. No.M-10483 of 2015 (O&M)
Date of decision : 28.07.2015**

Nishan Singh

.....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. V.P.S. Sidhu, AAG, Punjab.

Ms. Pooja Chopra, Advocate
for the complainant.

ANITA CHAUDHRY, J(ORAL)

CRM No.23414 of 2015

For the reasons set out in the application, same is allowed
and document Annexure P-5 is allowed to be taken on record.

Crl. Misc. No.M-10483 of 2015

The petitioner has been summoned under Section 193
Cr.P.C. to face trial in FIR No.95 dated 13.09.2014, registered under
Sections 302/34 IPC, Police Station Arniwala, District Fazilka.

A complaint was lodged by Sukhbir Singh who had named
Pargat Singh and his son Nishan Singh. Allegations were levelled

that both of them came on a motorcycle. Pargat Singh was sitting on pillion. Pargat Singh got off from the motorcycle and fired bullets at Gurjit Singh leaving him dead. The FIR was registered after about three hours of the incident. The police held an inquiry and placed the name of Nishan Singh in column no.2, he has now been summoned by the Magistrate.

The counsel for the petitioner contends that the petitioner is ready to appear before the Court to face trial. It is stated that there are no allegations of lalkara or overt act. He urges that the mobile phone records were collected by the police and the location of the phone was found 120 kilometers away from the place of incident and the petitioner was in the house of his aunt. He had placed on record copy of the call records. Reliance has been placed upon ***Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2011(1) RCR (Criminal) 126, Vikas Vs. State of Rajasthan 2013 (4) RCR (Criminal) 948, Sukhdev Singh Vs. State of Punjab 2009 (5) RCR (Criminal) 767, Harinder Singh Sharma @ Balli Vs. State of Punjab 2009(5) RCR (Criminal) 736 and Bajinder Singh and another Vs. State of Punjab in CRM-M-13285 of 2015 (P&H).***

The petition is opposed by the complainant side and it is urged that there are five witnesses who had seen the petitioner and both of them had come on a motorcycle and that is why he was named and the sim card is not in the name of Nishan Singh.

The petitioner has been summoned as an additional accused by the Court while exercising the powers under Section 193

Cr.P.C. A specific role had been ascribed to the petitioner. The petitioner states he is ready to face trial. In the report under Section 173 Cr.P.C., the name of the accused figures in column no.2. The summoning under Section 193 Cr.P.C. is only on the basis of material accompanying the report. The argument put forth on behalf of the petitioner is that the petitioner is entitled to anticipatory bail as his role was examined by the investigators and he was found to be innocent.

The petitioner undertakes to appear before the trial Court on the next date fixed in August, 2015. It is directed that in case the petitioner surrenders before the concerned Court on or before the next date of hearing, he would be admitted to interim bail and shall not be taken into custody. The petitioner would continue to appear in the Court. The petitioner would comply with the conditions laid under Section 438 (2) Cr.P.C.

The petition is disposed of.

28.07.2015
sunil

(ANITA CHAUDHRY)
JUDGE