

BHUMIKA BHATI
2015.06.09 15:59

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

**CRM No.M-17844 of 2015
Date of Decision: 08.06.2015**

Bhola Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HONBLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. H.S. Randhawa, Advocate for the petitioner.

Ms. Monika Chhibar Sharma, DAG, Punjab.

Mr. Amarjit Singh Jattana, Advocate for the complainant.

G.S. SANDHAWALIA J. (ORAL)

The present petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.160 dated 18.11.2014 (Annexure P-1) registered at Police Station Moonak, District Sangrur for offences punishable under Section 306 of the Indian Penal Code (in short 'IPC').

The deceased in the present case is Manjit Kumar, who is stated to have died on account of consumption of poisonous substance. As per the report of the Chemical Examiner, Kharar, aluminum phosphide was detected in the viscera report, which was sent by the prosecution.

Learned counsel for the petitioner has submitted that the incident took place on 15.11.2014 when the information was received from the Police Control Room, Fatehabad that Manjit Kumar was admitted in Government Hospital on 16.11.2014 with regard to admission of the said Manjit Kumar. His statement could not be recorded as he was unfit and at that point of time Harmesh Kumar, had got his statement recorded to ASI Amarjeet Singh, to the following effect:

“Stated that I am resident of the above mentioned address and am a driver on JCB Machine. Yesterday at about 8:30 PM. I received a message that my brother Manjit Kumar due to eating some poisonous is lying outside the house of Bhola Singh. I and other members of my family went there and had taken him to Tohana for treatment. After getting him admitted in Government Hospital, Tohana we got him admitted in Amar Hospital, Patiala. Now my brother is not fit for giving statement. Hence I and my father Kewal Krishan in consultation with relatives will get done the proceedings after 2-3 days. Therefore, further proceedings may not be undertaken for 2/3 days. The statement had been got written, heard and found correct. Sd/- Harmesh Kumar.”

Manjit Kumar died on 18.11.2014 and the FIR was then lodged by Harmesh Kumar. The additional allegation was made that the deceased had told him that he was overpowered by the petitioner and his wife and they had forcibly put some poisonous substance in his mouth. The additional portion reads as under:

“Where my brother Manjit Kumar told to us that I have not eaten anything and he told that he was forcibly overpowered by Bhola Singh and Rani W/o Bhola Singh and Bittu S/o Bhola Singh Jatt resident of Dudiyan in their house and they had forcibly put some poisonous substance in my mouth. Please save me. Prior to getting done any legal proceedings in this regard I want to verify hence I had earlier taken 2-3 days time by giving a written statement because my brother Manjit Kumar was having good relations with the family of Amrik Singh and he used to visit their house. In this regard in the night it was verified that in fact my brother Manjit Kumar was forcibly got eaten some poisonous substance by Bhola Singh, Rani and Bittu mentioned above or the aforesaid accused had only after giving poison to Manjit Kumar had thrown him out of the house, to whom I got

admitted in Government Hospital, Tohana for treatment wherefrom my brother was referred to Rajindra Hospital, Patiala, for treatment, where due to worsening of my brother's condition we had got him admitted to PGI, Chandigarh, where he was under medical treatment. Today I was coming to get done legal proceedings against aforesaid accused Bhola Singh, Rani and Bittu, where on the way I came to know that my brother Manjit Kumar had died at PGI, Chandigarh due to the poisonous substance administered to him by the aforesaid accused.

The said fact itself also finds mention in the final report which is submitted under Section 173 Cr.P.C. (Annexure P-2). Thus, it is apparent that at the initial stage the allegation was only that the deceased had himself consumed poison, which is contradictory to the subsequent version.

The petitioner is already in custody since 26.12.2014 i.e. for more than five months and ten days. It is submitted that a large number of prosecution witnesses around 30 have to be examined.

Keeping in mind the poisonous substance was aluminum phosphide, which has a pungent smell and thus could not have been consumed by concealing the same by the petitioner and in view of the above contradictory stands, present petition is allowed. The petitioner is directed to be released on regular bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of the Chief Judicial Magistrate/Illaq Magistrate, Sangrur. Nothing is said herein shall prejudice the trial Court to decide the case on merits and the above observations is only for the purpose of granting the bail.

(G.S. SANDHAWALIA)
JUDGE

08.06.2015
bhumika