

Crl. Misc. No.M-20014 of 2015

[1]

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

**Crl. Misc. No.M-20014 of 2015
Date of decision:18.06.2015**

Master Labh Singh (Retd. Teacher) ...Petitioner
Versus
State of Punjab and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Akashdeep Singh, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has prayed for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973, in a Complaint Case No.30 dated 22.08.2007 titled as “Darshan Singh vs. Labh Singh and others”, filed under Sections 302, 34 IPC and Sections 3 & 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “Act”), pending before the learned Judicial Magistrate 1st Class, Dhuri.

It is submitted that initially the FIR No.49 dated 26.05.2007 was registered under Section 304 IPC at Police Station Sherpur, District Barnala on the statement of Darshan Singh S/o Jangir Singh in which he had alleged that he along with his nephew Lakhwinder Singh S/o Piara Singh saw his father Jangir Singh with Labh Singh (petitioner herein) near the bus

Crl. Misc. No.M-20014 of 2015

[2]

stand and his deceased father had a scuffle with the petitioner Labh Singh, Ajaib Singh and Gurdial Singh. The petitioner along with Gurdial Singh and Ajaib Singh applied for pre-arrest bail before the Sessions Court, Sangrur, which was allowed on 20.06.2007.

Lateron, the complainant Darshan Singh filed a complaint under Section 302 IPC read with Section 3 & 4 of the Act, alleging that his father was murdered by the petitioner along with the other co-accused. After the statement of Darshan Singh was recorded as CW3, the Court dismissed the complaint vide order dated 11.07.2008, which was challenged by the complainant in Crl. Revision No.153 of 01.08.2008 before the Special Judge, Sangrur. The said revision petition was allowed on 07.06.2010 and the petitioner was summoned by the Judicial Magistrate 1st Class, Dhuri, on 09.09.2010. The petitioner filed Crl. Revision No.2758 of 2010 before this Court in which initially stay was granted but ultimately the revision petition was dismissed by this Court on 23.02.2015, upholding the order passed by the Special Judge, Sangrur.

Being afraid of his arrest in the complaint case, the petitioner filed pre-arrest bail before the Additional Sessions Judge, Sangrur, which has been dismissed vide order dated 01.06.2015 and hence, the present petition has been filed.

Counsel for the petitioner has vehemently argued that the deceased was already suffering from heart disease as in the postmortem only a bluish contusion of 3.5 cm x 3.5 cm on the bony prominence of left cheek was found but the condition of his heart was not good as it was found to

Crl. Misc. No.M-20014 of 2015

[3]

have been enlarged, blood vessels were thickened and ultimately it has been opined that the death has occurred due to cardiac arrest.

While referring to the judgment of the Supreme Court in the case of **Mayandi vs. State Rep. by Insp. of Police**, 2010(11) SCC 774, it is submitted that if the deceased was a heart patient which was not known to the accused, then the offence would fall under Section 326 IPC and not under Section 302 IPC.

Even in that situation, the petitioner is not entitled for pre-arrest bail because the scuffle and beatings by the accused-petitioner accelerated the cause of death which might had taken place because of cardiac arrest.

In view thereof, I do not find any merit in the present petition and hence, the same is hereby dismissed.

June 18, 2015
vinod*

(**Rakesh Kumar Jain**)
Judge