

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**Crl. Misc. No. M-24161 of 2015
Date of decision : 10.08.2015**

Bijender Singh

..... Petitioner

versus

State of Haryana

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. Rajesh Lamba, Advocate
for the petitioner**

Mr. Deepak K. Grewal, DAG Haryana

**Mr. Rohit Ahuja, Advocate
for the complainant**

ANITA CHAUDHRY, J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No. 1130 dated 17.11.2013 registered at Police Station Sohna Road District Gurgaon under Sections 341/365/302/34 IPC.

A complaint was made by Naresh on 15.11.2013. The complainant and his brother Sukhbir and one Rakesh and some other relatives were going in a tempo from Hodal to their village. The vehicle was driven by Sukhbir. On the way they came across Mohan Lal and some others who caught hold of Rakesh and Sukhbir. The complainant was kicked and he fainted. Those persons took Rakesh and Sukhbir with them. Two days later the dead body of Sukhbir was found. Sukhbir had earlier been arrested in FIR No. 759 dated 05.08.2013 under Sections 392, 394, 342 IPC.

The post mortem was conducted at Police Station

Sohna. No external injury was found on the body. On the insistence of the family, another postmortem was got done at PGI Rohtak. A Board consisting of three doctors including the one who had done the first postmortem in PGIMS Rohtak gave a cause of death as shock and hemorrhage on account of injuries suffered.

The facts revealed by the petitioner in his petition are as follows:-

The petitioner is said to be driving the official vehicle carrying the investigating team. The petitioner has pleaded that he was in the police party and the police officials surrounded Sukhbir and he started running. Rakesh was apprehended as they were wanted in a case. Sukhbir was chased by the police officials for about 8-10 killas. After a long pursuit, he was caught and was being made to sit in the vehicle and he resisted and tried to run away but he was forcibly put in the vehicle. The petitioner claims that he (Sukhbir) started hitting against vehicle.

Learned counsel for the petitioner contends that anticipatory bail had been allowed to Sunil who was heading the team. He urges that the petitioner was only a driver and the cause of death given by the doctors at PGIMS, Rohtak Annexure P-9 gives the cause of death as Cardiogenic shock. He urges that the matter was also reported to the Human Right Commission who had given a report Annexure P-7. The counsel urges that the postmortem examination which was carried out on 19.11.2013 the cause of death was not given as the report of the chemical analysts and histopathological was awaited. It was urged that the petitioner was

ready to join the investigation.

Learned counsel for the complainant supports the petitioner and urges that the complainant was ready to give an affidavit that the petitioner was not involved in the case and he had not named any police official but their names had been added.

Learned State counsel submits that the complainant is pitted against the police and it is a case of custodial death and in the first postmortem no external injury was shown which finds a reference in the judicial enquiry. It was urged that the family demanded another postmortem and matter was referred to PGI, Rohtak and a Board was constituted which has given the cause of death which is due to injuries. He urges that custodial interrogation is necessary to find who all were involved and how the incident had occurred.

Perusal of the record shows that the Human Right Commission, Haryana took a *suo moto* notice regarding the death of Sukhbir in police custody. The report was submitted by the Crime Branch. The Commission after going through the opinion given by the doctors of Sohna Hospital did not consider it a fit case for further action. Dissatisfied with the report the family raised the issue and the matter was referred to PGIMS Rohtak. The death was said to be due to Cardiogenic shock. Thereafter, a Board was constituted which had given its report that the cause of death was shock and Hemorrhage as a result of cumulative effect of injuries which were 12 in number.

The petitioner seeks anticipatory bail The complainant

has joined hands with the police officials may be under pressure or otherwise.

Learned State counsel had submitted that the complainant had succumbed to pressure and was now supporting the accused who are police officials and custodial interrogation was necessary.

In the first postmortem there were no injuries. A judicial enquiry was held. The concluding paragraph is similar to the report given by Human Right Commission which did not have the opinion of the Medical Board before it. Subsequently, a Board comprising of three doctors had given a report that the death was on account of the cumulative effect of the injuries sustained by Sukhbir. Sukhbir had died in police custody. The petitioner was driving the jeep that day. He is not posted as a driver. The facts are being given by the petitioner in this petition. The truth would come out only on thorough interrogation and in custody. No case for anticipatory bail is made out.

The petition is dismissed.

August 10, 2015

reena

**(ANITA CHAUDHRY)
JUDGE**