

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

**CRM-M-28982 of 2015 (O&M)
Date of decision: 01.09.2015**

Ashok Kumar

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Aditya Sanghi, Advocate for the petitioner

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

This is the second application for grant of anticipatory bail to the petitioner in FIR No.1130 dated 17.11.2013, registered under Sections 341, 365, 302 read with Section 34 IPC at police Station Sohna Road, Gurgaon. The first one was dismissed by this Court vide order dated 22.1.2015 passed in CRM No.M 2163 of 2015.

I have heard learned counsel for the petitioner and have also carefully gone through the file.

Suffice it to say that one Sukhbir is alleged to have died when the present petitioner along with the other police officials beaten him up. It is a case of custodial death. FIR in this case was registered on 17.11.2013. Thereafter, the present petitioner was not arrested and he filed anticipatory bail application in January 2015.

After the dismissal of first bail application on 22.1.2015, the petitioner

continued to serve in the police and he was very much available to the police but he was not arrested. Now it is alleged that he has been suspended and the police is raiding his house for arresting him. It is further contended that co-accused has been granted anticipatory bail by a coordinate Bench of this Court.

I am of the view that the conduct of the investigating agency from November 2013 till date shows that they are not performing their duties honestly. The petitioner had no apprehension till January 2015 when he filed the first bail application. When the same was dismissed, for eight months the police did not touch the petitioner though he was on duty with police and he was very much available. Now suddenly, the petitioner has the apprehension that he may be arrested. It is a serious case of murder which requires thorough investigation, which is probably not being done in the present case.

Learned counsel for the petitioner has argued that in April 2015, a family member of the deceased made a statement under Section 164 Cr.P.C. before the Magistrate, in which, he has stated that the petitioner has no role in the matter. It further strengthens the suspicion of this Court that the police is colluding with the present petitioner. The petitioner was not arrested for all these years. The police got the statement of one of the family members of the deceased recorded before the Magistrate under Section 164 Cr.P.C., though it is not claimed that the said family member was present in the police station when the deceased died in the police custody. The voluntary nature of such statement is yet to be examined.

In these circumstances, I am of the view that it is not a fit case where anticipatory bail should be granted to the petitioner.

The petition stands dismissed. Copy of order be sent to DGP Haryana to look into the matter to ensure speedy and fair investigation.

01.09.2015
gk

(Kuldip Singh)
Judge