

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

CRM No.M-31754 of 2015

Ajay Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

(2)

CRM No.M-33825 of 2015

Inspector Harish Behal

...Petitioner

Versus

The State of Punjab

...Respondent

Date of Decision: October 01, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the petitioner (in CRM No.M-31754 of 2015).

Mr.R.S.Rai, Senior Advocate with
Mr.Deepender Brar, Advocate
for the petitioner (in CRM No.M-33825 of 2015).

Ms.Simsi Dhir Malhotra, Deputy Advocate General, Punjab
for the respondent-State.

Ms.Ishma Randhawa, Advocate
for respondent No.2 (in CRM No.M-31754 of 2015).

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together
being arisen from same complaint case.

Petitioners have filed these petitions under Section 438

Cr.P.C. for grant of anticipatory bail in complaint case RBT No.12 dated 24.09.2011 titled as 'Bua Singh vs. Ashok Kumar alias Kocha and others' in which they have been summoned by learned JMIC, Amritsar vide order dated 23.01.2015 to face trial along with others under Sections 302, 364 and 120-B IPC.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

Police record is also available.

From the record, I find that accused have been summoned on the basis of complaint filed by Bua Singh against Ashok Kumar alias Kocha and other accused under Sections 302, 364, 201 and 120-B IPC. As per the complainant, on 27.07.2011, a quarrel had taken place between complainant and Ajay Kumar, who is worker of political party and close associate of MLA. An FIR No.253/2011 under Sections 342, 379, 367, 506, 148 and 149 IPC was registered at Police Station Civil Lines, Amritsar. It is the case of the complainant that on 27.07.2011 ASI Paramjit Singh and other police officials arrested brothers of complainant namely Bawa Singh and Balwinder Singh @ Bind. Thereafter, the complainant and others approached the police chowki, where ASI Dilbagh Singh was present but the police kept on making excuses and told that they will release Bawa Singh. On 28.07.2011, the inhabitants of town again went to police chowki, Faijpura and they came to know that Bawa Singh has been sent to Police Station Majitha Road. SI Harish Behal was Incharge of the said police station. When they reached Police Station Majitha Road,

accused No.8 Kabir Sharma, P.A. to MLA was present there and the police misbehaved with them and did not allow the complainant to meet his brother Bawa Singh. It is alleged that police had beaten Bawa Singh in police chowki. The complainant and others also approached MLA but he told the complainant that his brother used to oppose him and now he is in their custody. It is also the case of the complainant that when high officials were not present in the police station, then guard/sanitary of the police station allowed them to meet Bawa Singh, who on seeing them started crying and told them he is being maltreated by the police. He also told that MLA had come to police station and got beaten him and also humiliated him. There is allegation that Bawa Singh was tortured by the police at the instance of other accused. On 30.07.2011, Bawa Singh was sent to Central Jail. On 01.08.2011, mother-in-law of Bawa Singh went to Central Jail to meet Bawa Singh but he was not brought from inside by the jail staff and it is alleged that no medical treatment of Bawa Singh was got conducted in the jail and the complainant came to know on 02.08.2011 regarding the post-mortem of the dead body of Bawa Singh.

Learned counsel for the petitioners argued that the deceased was arrested in FIR on 29.07.2011 and produced before the Court. On 29.07.2011, he was medico legally examined. After one day police remand, again on 30.07.2011, Bawa Singh was medico legally examined and the doctor gave the opinion that no fresh injury was found. On 01.08.2011, when he was in judicial custody inside the

jail, he died there. Inquest proceedings by learned JMIC were conducted. Statements of inmates and doctors were also recorded. Learned counsel for the petitioners further argued that a fight took place between the deceased and some jail inmates.

I have gone through the documents placed on the record.

As per the complainant's version, it is case of custodial death by alleging that police officials at the instance of private respondents tortured Bawa Singh and due to injuries, he died in the jail. I have gone through the inquest report prepared by learned JMIC and also gone through the medical examination reports of the doctors and other documents placed on record. As per the post-mortem examination report, there were 12 injuries on the person of Bawa Singh.

Keeping in view the facts and circumstances of the case, nature and gravity of the offence, and without discussing the merits of the case in minute details and without expressing any opinion on the merits of the case, I do not find it a fit case where petitioners are entitled to benefit of grant of anticipatory bail.

Therefore, finding no merit in both the petitions, the same are dismissed.

October 01, 2015
Vgulati

(INDERJIT SINGH)
JUDGE