

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

CRM-M-37153 of 2015

Date of decision: December 09, 2015

Vivek Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Dhiraj Chawla, Advocate for the petitioner.

Mr. Shilesh Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.(oral)

This is a petition under Section 438 Cr.P.C. seeking pre-arrest bail in a case registered against the petitioner under Section 365 IPC (Section 306 IPC added on 6.3.2015), at Police Station Civil Lines, Amritsar, vide FIR No.397 dated 4.11.2014.

Learned counsel for the petitioner contends that petitioner has been falsely implicated. He submits that petitioner is being victimized unnecessarily by the police. He has no concern with the disappearance of Sachin. Petitioner, thus, deserves concession of pre-arrest bail.

Plea has been opposed by the State counsel. He submits that petitioner and co-accused kidnapped son of the complainant namely, Sachin Seth and later on his dead body was recovered from the side of railway track. Thus, custodial interrogation of the petitioner is necessary.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

Brief factual matrix of the case is that FIR was registered on the basis of statement made by Shashi Seth. He alleged that his son Sachin Seth was working with a Chartered Accountant namely, Vijay Bhatia and had been missing since 12.9.2014. Repeated phone calls were being made to his son on 11.9.2014, due to which he looked in tense. He expressed apprehension that some untoward incident had taken place. An enquiry was conducted by Additional Deputy Commissioner of Police, Amritsar and on the basis of same, FIR No.397 dated 4.11.2014, under section 365 IPC was registered at Police Station, Civil Lines, Amritsar. On 5.3.2015, police received an information that a body had been recovered by the railway police which resembled description of the missing person. Same was identified by the relatives. Thus, offence under section 306 IPC was added. Presently case is being investigated by a specially constituted investigation team. Petitioner has sought pre-arrest bail on the ground that his involvement is not there in the crime. The deceased committed suicide, for which petitioner cannot be blamed. An affidavit has, however, been filed by Gurnam Singh, Assistant Commissioner of Police, Amritsar. He submits therein that custodial interrogation of the petitioner is necessary to unearth the entire conspiracy. This court had earlier rejected a similar prayer made by the co-accused Vijay Bhatia. Operative part of the order reads as under:-

“During the hearing of instant petition no copy of postmortem report was forthcoming. Counsel for the petitioner

was asked to refer to the PMR. Criminal Miscellaneous No.12759 of 2015 was filed. PMR dated 14.09.2014 was taken on record. According to said report, cause of death of the deceased was hemorrhage and shock due to head injury and other multiple injuries. All the injuries were stated to be ante-mortem and sufficient to cause death in ordinary course of nature. During the course of hearing of the petition, Shri Dhruvan Nimbale ADCP Traffic, Amritsar City who is heading the Special Investigation Team appeared and stated that investigation was still in progress and it was yet to be established whether it was a case of suicide or homicide. He also submitted that after offence under section 306 IPC was added, several attempts made to contact the petitioner proved futile. Learned State counsel has referred to the affidavit dated 17.04.2015 and submitted that all the circumstances of the occurrence are known to the petitioners and their custodial interrogation is necessary to unearth the manner in which crime was committed.

Keeping in view entire facts and circumstances of the case particularly the fact that investigation is at a crucial stage, I am of the considered view that no case for grant of pre-arrest bail is made out. Investigation has to be taken to its logical end. Petition is, thus, without any merit and is dismissed.”

It is evident that deceased had gone missing on 12.9.2014. Frequent calls were made on his mobile phone by the accused. Admittedly, he had left his mobile phone and wallet in his office and was not heard of thereafter. It is yet to be ascertained whether accused concealed certain material facts from the investigating agency. In the eventuality they were aware of disappearance of their employee, it was necessary to inform the police at the earliest. Entire episode is shrouded in mystery. Same can be unravelled by a thorough probe. For this,

investigating agency seeks custodial interrogation of the petitioner.

In the facts and circumstances, petitioner is not entitled to concession of anticipatory bail. Petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 09, 2015
'Rajpal'