

**CRM-36049-2014 and
CRM-598-99-2015 and/in
CRM-M-40319-2014 (O&M)**

-1-

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

**CRM-36049-2014 and
CRM-598-99-2015 and/in
CRM-M-40319-2014 (O&M)
Date of Decision: January 13, 2015**

PARUPKAR SINGH AND ANR

.....Petitioners

Versus

STATE OF PUNJAB AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

**Present: Mr.P.S.Hundal, Sr.Advocate with
Mr.Jashandeep Singh, Advocate
for the petitioners.**

Mr.Shilesh Gupta, Addl.A.G.Punjab.

**Mr.D.S.Pheruman, Advocate
for applicant-respondent No.2.**

.....

Naresh Kumar Sanghi, J.(Oral)

CRM-36049-2014

Prayer in this application, filed under Section 482, Cr.P.C., is for for grant of exemption from filing the certified copy of documents, Annexures P1 to P3.

After hearing the learned counsel for the applicant-petitioners and going through the contents of the application, applicants are exempted from filing the certified copy of

Annexures P1 to P3.

CRM disposed of.

CRM-598-2015

The present application, under Section 482, Cr.P.C., has been filed to implead applicant Kuldev Singh, s/o Tarsem Singh, resident of village Mehmowal, Police Station, Mehtiana, District Hoshiarpur, as respondent No.2. A copy of the application has been supplied to the learned counsel for the petitioners.

After hearing the learned counsel for the parties and going through the material available on record, applicant-Kuldev Singh, s/o Tarsem Singh, resident of village Mehmowal, Police Station, Mehtiana, District Hoshiarpur, is permitted to be impleaded as respondent No.2.

Registry of this Court is directed to make the necessary amendment in the memo of parties enclosed with the main petition.

CRM disposed of.

CRM-599-2014

The present application has been filed by applicant-respondent No.2 for placing on record the documents, Annexures R2/1 to R2/5 with a further prayer to grant exemption from filing the certified copies of the said Annexures. Copy has been supplied to the counsel opposite.

After hearing the learned counsel for the parties, the applicant is exempted from filing the certified copies of Annexures R2/1 to R2/5 and the said documents are taken on record.

CRM disposed of.

CRM-M-40319-2014

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioners Parupkar Singh and Gurminder Singh, who have been booked for having committed the offences punishable under Sections 302 and 304, IPC, in a case arising out of FIR No.17, dated 22.02.2014, registered at Police Station, Mehtiana, District Hoshiarpur.

Learned counsel contends that as per initial version recorded in the FIR, Parupkar Singh @ Pari (since deceased) was going from his house to other area of the village and in the way, two persons (not arrayed as accused) exhorted that he (since deceased) be waylaid and be not spared; two more persons caught hold of Parupkar Singh @ Pari (since deceased) and thereafter the petitioners caused kick blows on his head and private parts. Parupkar Singh @ Pari (since deceased) was shifted to the hospital at 5.50 p.m. on 22.02.2014, i.e. the day of occurrence and was declared brought dead by the Medical Officer, Narad Hospital, Hoshiarpur. The matter was reported to the police. The statements of the eye-witnesses, namely, Kuldev Singh, his brother Manjit Singh and one Sohan Singh were recorded. After thorough investigation, the police came to the conclusion that petitioners Parupkar Singh and Gurminder Singh had not committed the offence and, as such, application under Section 169, Cr.P.C., was moved for their discharge, which was accepted by learned Area Judicial Magistrate and the petitioners were discharged. After receipt of the report from the Chemical

Examiner on 27.10.2014, the opinion of the Medical Board was obtained and the charge-sheet for prosecution of the petitioners for the offence punishable under Section 304, IPC, was presented. Learned Area Judicial Magistrate by taking cognizance under Section 190, Cr.P.C, summoned the petitioners and they were taken into custody on 01.10.2014. Thereafter the case was committed to the Court of Session, which is pending for consideration of the charges.

Learned counsel further contends that at the time of initial examination by the Doctor and during autopsy, not even a single injury was noted on the person of Parupkar Singh @ Pari (since deceased). Reports received from Histopathologist and the Chemical Examiner would also reveal that there were no injuries on the person of Parupkar Singh @ Pari (since deceased). However, he submits that mere assertion of the Histopathologist at a later stage that there was congestion of the blood vessels in one of the testicles would not connect the petitioners with the offence of culpable homicide not amounting to murder. He further contends that on 26.05.2014 at the request of the prosecution the learned Area Judicial Magistrate discharged the petitioners and they remained out of the jail for approximately five months, but they did not misuse the said concession. He further contends that applicability of Section 304, IPC, would be a moot point during trial.

Learned counsel for the State after going through the police file and seeking instructions from ASI Bhupinder Singh submits that vide report, dated 27.10.2014, a Medical Board had

opined that the death of Parupkar Singh @ Pari (since deceased) occurred due to shock on account of the injuries received on the testicles and, as such, the ingredients of Section 302, IPC, are squarely attracted against the petitioners. However, he fairly conceded that during investigation the petitioners were found innocent and, as such, the application for their discharge was presented before the Area Magistrate, which was accepted and the petitioners were discharged. He further contends that the case is at the stage of framing of charges, therefore, the petitioners be not extended the concession of bail.

Learned counsel for respondent No.2-complainant has also supported the stand of the learned State counsel.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

It is the conceded case of the prosecution that at the time of initial medical examination and during course of autopsy not even a single injury was detected on the person of Parupkar Singh @ Pari (since deceased). As per initial version recorded in the FIR, the petitioners had caused injuries not only on the private parts but on the head of the deceased as well, but non-detection of the injuries on his person would create suspicion with regard to the version of the prosecution. The reports received from Histopathologist and Chemical Examiner would not definitely prove that Parupkar Singh @ Pari had died on account of the injuries received. It is also the admitted position that after recording of the statements of the eye-witnesses, the Investigating

Agency arrived at a conclusion that petitioners had not caused the death of Parupkar Singh @ Pari and, as such, the application for their discharge was presented and accepted by the learned Area Judicial Magistrate. During the period of five months, i.e. from 26.05.2014 to 01.10.2014, the petitioners remained out of jail but they did not misuse the concession, in any manner. Applicability of Section 302, IPC, would be a moot point during course of trial.

Keeping in view the totality of the facts and circumstances of the case, the present petition is allowed. Petitioners Parupkar Singh son of Tarlochan Singh and Gurminder Singh son of Sadhu Singh, both residents of village Mehmowal, Police Station, Mehtiana, District Hoshiarpur, are ordered to be released on bail during pendency of the trial of the present case subject to their furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/ Duty Magistrate, Hoshiarpur.

The observations made hereinabove are for the limited purpose of deciding the present petition for bail only.

January 13, 2015
meenu

(NARESH KUMAR SANGHI)
JUDGE