

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

CRM-M-43910-2014

Date of Decision : 13.02.2015

Vikram and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. N.S. Shekhawat, Advocate
for the petitioners.

Mr. Satish Saini, DAG, Haryana.

Mr. Arvind Singh, Advocate
for the complainant.

KULDIP SINGH, J. (Oral)

Three petitioners, namely, Vikram, Kushal Pal Singh, Pardeep filed this petition for grant of anticipatory bail for the offences under Section 148, 149, 302 and 506 IPC pertaining to FIR No. 309 dated 27.08.2012 registered at Police Station Nissing, District Karnal.

It is stated that the petitioners were found innocent during investigation. However, they have been summoned by the learned Sessions Judge, Karnal vide order dated 20.11.2014. Learned counsel for the petitioner has contended that in this case, Special Investigation Team (SIT) was formed and Scientific Investigation was carried out. 13 persons were named in the FIR, out of which 10 persons were found innocent. In this case, one person, namely, Mukesh was murdered. It has been argued that even in the FIR though the petitioners are stated to be carrying different weapons, but no specific injury was attributed to them. It is

alleged that except the three main accused, the remaining accused gave kick and fist blows.

It is stated that while presenting the report, it was found that regarding Vikram-petitioner No.1 no corresponding injury was found and that the pistol allegedly carried by him has been found deposited with M/s Krishna Armoury, Karnal since 23.05.2012 i.e. three months before the occurrence. The police has also mentioned about him, that he being the witness to the compromise, was falsely implicated.

Regarding petitioner No.2-Kushal Pal Singh, it was found that the call details of respondent No.2 were obtained to find that he was not present at the place of occurrence.

Regarding petitioner No.3-Pardeep, it was found that there was footage of CCTV Camera of Baba Markandeshwar Temple, Shahbad, District Ambala which shows that he was present in the temple from 6.30 P.M to 7.30 P.M and the place of occurrence i.e. 80/90 KMs from the said place. The occurrence stated to be taken place at 8.00 P.M. It has been further argued that even the polygraph test of the petitioners was got done from FSL, Madhuban and CFSL, New Delhi to rule out their involvement in the crime. Therefore, it has been argued that in view of scientific investigation, they were found innocent. Now, they have been summoned in the exercise of power under Section 319 Cr.P.C., by the learned Sessions Judge as they were named by the witnesses.

The plea has been strongly opposed by the learned State counsel on the ground that in this case five police officials who had conducted the initial investigation were suspended and action was taken

against them and one of them is even been challaned under Section 201 IPC. It has been argued that five injuries were found on the person of the deceased Mukesh out of which one proved fatal.

After considering the facts and circumstances of the case, it comes out *prima facie* in this case the scientific investigation was carried out to rule out the involvement of the petitioners in the crime. Now, there is an oral version of the petitioners which is yet to be weighed by the learned Sessions Judge. Now, the question is as to whether the detention of the petitioners is required till the conclusion of the trial? I find the reply in negative. The present petition have a good defence in the case which is to be proved at appropriate stage. Since, the petitioners have the strong defence, there is no likelihood of petitioners fleeing the justice.

In the circumstances, I am of the view that the petitioners are entitled to anticipatory bail, subject to strict conditions to be imposed by this Court.

Accordingly, the petition is allowed. The petitioners are directed to surrender before the Sessions Court, immediately. In the event of their arrest they be released on bail on their furnishing personal bonds in the sum of Rs. 2,00,000/- with one surety in the like amount each to the satisfaction of the trial Court, subject to following conditions:-

- (i) The petitioners shall surrender their passport, if they do not have any passport, then they will file an affidavit to the effect that they do not have any

passport;

- (ii) They will not go near the complainant or any of the witnesses and will not tamper with the evidence;
- (iii) They will appear on each and every date of hearing before the trial Court and will not seek unnecessary exemptions.
- (iv) They will not commit any crime while on bail.

If, the petitioners violate any of the conditions, the complainant or State can always move to this Court. The observations made above shall not be construed on the merits of the case.

The petition stands disposed of.

February 13, 2015
Naveen

(KULDIP SINGH)
JUDGE