

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

MUKESH KUMAR SALUJA
2015.03.20 13:06
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CRM-M-5946-2015 (O&M)

Date of decision:19.03.2015

Bhoop Singh and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.N.S.Shekhawat, Advocate for the petitioners.
Mr.Ashish Yadav, Addl.A.G., Haryana.
Mr.Arvind Singh, Advocate for the complainant.

RAMESHWAR SINGH MALIK, J. (Oral)

CRM-8323-2015

Applicants seek to place on record Annexures R-2/1 to R-2/4 and also seek exemption from filing the certified copies thereof.

Application is allowed, as prayed for.

CRM stands disposed of.

Main case

Petitioners seek pre-arrest bail in FIR No.309 dated 27.8.2012 registered under Sections 148, 149, 302 and 506 of the Indian Penal Code at Police Station Nissing, District Karnal.

Learned counsel for the petitioners submits that even the Special Investigating Team ('SIT' for short) has found the petitioners to be innocent. That conclusion was arrived at after detailed and scientific investigation of the matter. He further submits that different versions were being put into service at the hands of the complainant party at different points of time as per their suitability. He would next contend that the only limited attribution to both the petitioners was fists and kicks blows. The investigation was being monitored by this Court in a petition filed by the complainant. More than one status reports came to be filed before this Court, during the pendency of that petition. In this view of the matter, learned counsel for the petitioners submits that petitioners are entitled for anticipatory bail because exactly similarly placed co-accused of the

petitioners were granted the concession of pre-arrest bail by this Court vide order dated 13.2.2015 passed in CRM-M-43910-2014. He prays for allowing the present petition.

Per contra, learned counsel for the complainant submits that except fists and kicks blows, no other injury was attributed to Vikram and others, who were granted the concession of bail by this Court vide order dated 13.2.2015, because of which petitioners cannot claim parity. He also relies upon a judgment of this Court in Madan Lal v. State of Punjab, 1999 (1) AICLR 427, to contend that since the particular role has been attributed to the petitioners and injury caused by the petitioners on the person of the deceased have been found to be prima facie corroborated by the medical report as well, petitioners were not entitled for pre-arrest bail. He prays for dismissal of petition.

Learned counsel for the State also opposes the instant petition, submitting that once the learned trial Court has found a prima facie case against the petitioners, while summoning them under Section 319 Cr.P.C. and the injury attributed to the petitioners has been corroborated by the medical evidence as well, they are not entitled for anticipatory bail.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that so far as petitioner No.1-Bhoop Singh is concerned, he has not been found entitled for pre-arrest bail. It is so said, because a specific injury attributed to him by PW-1 and PW-2 (author of the FIR) has been corroborated by the medical report. The veracity of the prosecution evidence in this regard would be seen and appreciated by the learned trial Court during the course of trial. Since the petitioners in CRM-M-43910-2014 were not attributed any injury except fists and kicks blows, petitioners in the present case cannot claim party. Having said that, this Court feels no hesitation to conclude that no case of anticipatory bail is made out in favour of petitioner No.1.

So far as petitioner No.2 namely Randeep is concerned, the injury attributed to him has not been found to be on a vital organ of the body of the deceased in the post-mortem report. As per final conclusion of

the post-mortem report, the cause of death in this case is hemorrhage and shock due to injury to vital organs which was sufficient to cause death in normal force of life. Since the injury attributed to petitioner No.2 was admittedly not found on any vital organ of the body, he deserves concession of pre-arrest bail.

Keeping in view the totality of the facts and circumstances of the case noticed hereinabove, instant petition qua petitioner No.1 is dismissed. So far as petitioner No.2 is concerned, he has been found entitled for pre-arrest bail and the present petition is allowed qua petitioner No.2. Consequently, petitioner No.2-Randeep is directed to appear before the learned trial Court and he shall be released on anticipatory bail subject to the conditions provided under Section 438 (2) Cr. P.C.

Petition stands disposed of, accordingly.

19.03.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE