

CRM-M No. 10393 of 2016 (O&M)

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

**1. CRM-M No. 10393 of 2016 (O&M)
Date of decision :21.09.2016**

Sukhjant Singh Petitioner

Versus

State of Punjab and anotherRespondents

**2. CRM-M No. 12204 of 2016 (O&M)
Date of decision :21.09.2016**

Pritam Singh and another Petitioners

Versus

State of Punjab and anotherRespondents

**3. CRM-M No. 15345 of 2016 (O&M)
Date of decision :20.09.2016**

Parvinder Kaur alias Sukhbir Kaur Petitioner

Versus

State of Punjab and anotherRespondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.P.S.Ahluwalia, Advocate for the petitioner
(in CRM-M-10393-2016).

Ms.Baljit Mann, Advocate for the petitioner/s
(in CRM-M-12204-2016 and 15345-2016).

Ms.Amarjit Kaur Khurana, Addl.AG, Punjab.

Mr.D.S.Gurna, Advocate for respondent No.2
in all the three cases.

AJAY TEWARI, J. (Oral)

At the very outset, learned counsel for the petitioner/s has stated that in petition (CRM-M-15345-2016) it has been mentioned that the petitioner has not filed any previous petition for anticipatory bail and this statement is not entirely incorrect because inadvertently it has not been mentioned that originally when the FIR under Section 306 IPC has been lodged the petitioner had filed an application for anticipatory bail. The same had been declined but ultimately that FIR was cancelled.

This order shall dispose of the aforementioned three petitions for the grant of pre-arrest bail in a criminal complaint No. 15

wherein the petitioner/s have been summoned to face trial under Sections 302, 201 and 120-B of the Indian Penal Code by the Court of Sub Divisional Judicial Magistrate, Samana. Since all the three petitions have arisen out of a common complaint, they are being disposed of by this common order.

On 08.04.2016 the following order was passed in CRM-M-10393 of 2016 :-

“ The instant petition has been filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioner in criminal complaint No.15 dated 06.06.2014 titled as Amar Nath versus Parvinder Kaur & others wherein the petitioner has been summoned to face trial for offence punishable under Sections 302/201/120-B IPC vide summoning order dated 09.02.2016 (Annexure P-2) passed by the learned Sub Divisional Judicial Magistrate, Samana. Counsel would submit that the complainant Amar Nath is the father of Baljinder Singh (since deceased). Further submitted that on the same set of allegations FIR No.168 dated 08.05.2010 initially came to be registered at Police Station Samana, District Patiala for offence under Sections 306/120-B IPC. Investigation having been conducted, a cancellation report was filed. On the other hand, complainant submitted a complaint which was treated as a protest petition and which in turn had led to the passing of

the summoning order.

Counsel has adverted to the order dated 09.02.2016 placed on record at Annexure P-8 whereby the present petitioner and other co-accused have been summoned through non-bailable warrants and the matter is now stated to be fixed for 12.04.2016.

A two fold submission has been raised. It is argued that the Court has erred in not even adverting to the cancellation report while issuing the summoning order leaving alone dealing with the same. That apart, reliance has been placed upon the judgments of the Hon'ble Supreme Court of India in Inder Mohan Goswami vs. State of Uttranchal 2007(4) RCR (Crl.) 548 and Vikas vs. State of Rajasthan 2013(8) SCR 208 to contend that in complaint cases, in the first instance, resort should be taken for issuance of summons by way of bailable warrants and it is only upon failing to secure presence of the accused that non-bailable warrants should be issued. Counsel submits that the petitioner is otherwise ready and willing to appear before the trial Court in pursuance to the summoning order.

List on 21.07.2016.

In the meanwhile, it is directed that in case the petitioner duly appears before the trial Court on the date already fixed i.e. on 12.04.2016, he would be entitled to ad interim protection as regards arrest subject to satisfaction of the trial Court.”

On 08.04.2016 the following order was passed in

CRM-M-12204-2016:-

“ *Notice of motion, returnable for 21.07.2016.*

To be listed along with CRM No.M-10393 of 2016.

For the reasons recorded by this Court in the connected matter i.e. CRM No.M-10393 of 2016, interim relief to the present petitioners in the same terms is granted.”

On 05.05.2016 the following order was passed in

CRM-M-15345-2016:-

“ *Heard.*

Issue notice of motion, returnable for 21.07.2016.

To be listed along with CRM No.M-10393 of 2016.

For the reasons recorded by this Court in the connected matter i.e. CRM No.M-10393 of 2016 interim relief to the present petitioner in the same terms is granted.”

All the above mentioned cases relate to the death of Baljinder Singh whose post mortem report reveals that he died due to poisoning by organo phosphorous compound. The petitioner/s are wife of the deceased, her father, her brother and her alleged paramour. It is not disputed that originally an FIR had been lodged under Section 306

IPC where only the petitioner-wife was arrayed as an accused and at the

time when that FIR was sought to be cancelled, the complainant filed the protest petition which has been treated as a complaint and the petitioners have been summoned. Under the previous interim orders granted by this Court the petitioners have surrendered before the Court and have joined the proceedings.

Learned counsel for the petitioner/s have argued that as per the allegations the deceased was called to the house of the in-laws and was administered poison. They have argued that organo phosphorous compound cannot be administered by force without leaving any injury, or by deceit, and in the present case no injury was found in the post mortem report and consequently the entire case against them is cooked up.

Learned counsel for the complainant on the other hand has argued that at this stage the petitioners cannot ask for prejudging the entire issue and the prosecution will lead evidence to prove the fact of murder.

Without commenting on the merits of the case, I do not deem

it appropriate to deny the concession of bail to the present petitioner/s.

In the circumstances all the three petitions are allowed and the interim orders dated 08.04.2016(in CRM-M-10393-2016 and in CRM-M-12204-2016) and dated 05.05.2016(in CRM-M-15345-2016) are made absolute.

(AJAY TEWARI)
JUDGE

September 21 , 2016
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No