

CRM-M-1464-2016 (O&M)

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

**CRM-M-1464-2016 (O&M).
Decided on: January 21, 2016.**

Shiv Lal alias Sholly

..... Petitioner(s)

Versus

The State of Punjab

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.R.S.Rai, Sr. Advocate, with
Mr.D.S.Brar, Advocate,
for the petitioner.**

Ms.H.K.Athwal, DAG. Punjab.

**Mr.Anupam Gupta, Sr. Advocate, with
Mr.S.P.S.Tinna, Advocate,
for the complainant.**

M.M.S. BEDI, J (ORAL).

Petitioner an accused of having entered into conspiracy in the murder of Bhim Tank with other accused Harpreet Singh @ Harry, Amit Doda and about 20 other persons, seeks concession of pre-arrest bail.

The prosecution in this case was launched on the basis of statement made by Ranjit Singh @ Rana, to the effect that Bhim Tank was his family friend and former President of Bhim Pickup Union. He was working under the petitioner who is running his business of liquor vends in the States of Punjab, Haryana, Himachal

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Pradesh, Uttar Pradesh (U.P.) and Rajasthan. Bhim Tank earlier worked in one of the liquor vends owned by the petitioner but on account of some dispute having arisen between Bhim Tank and the petitioner, he stopped working with the petitioner on account of which petitioner nursed a grudge against Bhim Tank. The liquor business of petitioner is taken care of by his nephew Amit Doda. Petitioner and Amit Doda became inimical towards Bhim Tank on account of he having opened his own Dhaba in Abohar Town, leaving the job of petitioner. Raja and Wazir Singh used to stop the vehicles which used to come from outside and indulged in effecting illegal recoveries. Bhim Tank being ex-President of Pickup Union used to stop them on account of which there was a dispute going on between them. On 11.12.2015, Harpreet Singh @ Harry rang up Gurjant Singh on telephone and told him that he and Bhim Tank should come to the Farm of the petitioner in Ramsara village where Amit Doda would get the matter compromised between Bhim Tank and Wazir and Raja. Bhim Tank and Gurjant Singh in Innova Car whereas complainant along with Jaspal Singh maternal uncle of the complainant and Ajay Kumar drove in their Tarno Nissan Car towards Ramsara. Bhim Tank and Gurjant Singh went inside farm house where Harpreet Singh @ Harry, Raja, Wazir Singh, Radhe Sham alias Radhia, Devinder, Gulabia, Davinder alias Pari, Vicky Pandit, Simran, Chhaju and Happy Thakur besides 6-7 unidentified persons were already standing. When Bhim Tank and Gurjant Singh alighted from the

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vehicle, Radhey Sham, Davinder alias Pari and 3-4 unidentified persons brought Bhim Tank on the ground and Harpreet Singh @ Harry, Wazir, Raja, Gulabia armed with kirpan and tokas, chopped off both hands/wrists and two feet of Bhim Tank whereas Vicky Pandit, Radhia and Harry chopped off right hand/wrist of Gurjant Singh and also caused more injuries. On alarm being raised, all the accused ran away from the spot along with their respective weapons. Bhim Tank and Gurjant Singh were put in a vehicle and brought to Civil Hospital, Abohar where after taking first aid they set out for Amandeep Hospital, Amritsar. When they reached Amritsar, by then Bhim Tank had died. The complainant got Gurjant Singh admitted in Amandeep Hospital, Amritsar, and after bringing back Bhim Tank placed the dead body of Bhim Tank at dead house where the police reached and statement of Ranjit Singh was recorded.

On receipt of information of the occurrence, the police appears to have collected the MLRs of Bhim Tank and Gurjant Singh and went to Amritsar on coming to know that injured persons have been referred to Amritsar where it transpired that Bhim Tank had died and his dead body was being brought by his heirs to Abohar. Above said statement of Ranjit Singh was recorded by the Investigating Officer at Civil Hospital, Abohar. Statement of Ranjit Singh was sent for registration of the FIR.

Since the occurrence has taken place in the farmhouse of the petitioner and the deceased Bhim Tank had been

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an employee of the petitioner, there are allegation of relations of said Bhim Tank having turned soar. The petitioner is alleged to have masterminded the murder of Bhim Tank with the help of his employees who were present on the spot and have also been arrested.

The petitioner has been involved in the case on the allegations that he had connived with the other co-accused by entering into conspiracy to achieve the objective that none of his employees could dare to go against the wishes of the petitioner who is alleged to be a rich and influential person having the business of liquor and finance throughout North India at Delhi, Haryana, Himachal Pradesh, Punjab and Rajasthan.

Mr.R.S.Rai, learned senior counsel appearing on behalf of the petitioner has vehemently contended that the petitioner was not present in Abohar at the time of the incident and that no doubt, he is owner of the farmhouse but he has been residing at Delhi. He has contended that the petitioner is being involved in the case on the basis of misguided suspicion with an objective to trap the petitioner on account of obvious reasons mentioned even in the FIR. He has drawn the attention of this Court to the medical reports of Civil Hospital, Abohar, where Gurjant Singh injured along with deceased had been taken after the alleged chopping off, their body parts. Gurjant Singh injured who was taken to Civil Hospital was given medical treatment and was referred to Medical College,

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Faridkot but Bhim Tank is not shown to have been given any treatment. He was also referred to Medical College, Faridkot. Instead of taking the injured to Faridkot, they were taken to Amritsar. The deceased was shown to have been taken to Amritsar and back only to cover up the delay. He claims that the delay has been used for interpolations, manipulations and deliberations to extend the trap and involve all the persons connected with the business of the petitioner.

Mr.Rai, learned senior counsel has also argued that the death certificate has been obtained from Amritsar on 18.1.2016 and the allegations in the FIR do not connect the petitioner with the case as he is not named therein.

Mr.Rai, learned senior counsel has also urged that certain statements have been incorporated under Section 161 Cr.P.C., to entangle the petitioner on the allegations of conspiracy. He has urged that the petitioner being a politically connected person is being dragged at the instance of the political rivals. Statement of PW Akash son of Madan regarding involvement of the petitioner in conspiracy was allegedly recorded on 21.12.2015, when the application for pre-arrest bail filed by the petitioner was pending before Sessions Court but subsequently when it transpired that as per tower location, he was not there, statement of another Akash son of Rajinder Singh was recorded on 22.12.2015. Besides this, statement of his mother has been recorded to the effect that before the death of Bhim Tank, he had told her that he had been injured in

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conspiracy with the petitioner.

Learned senior counsel for the petitioner has also argued that the statement of one Sagar referred to by the Sessions Court in the order and the supplementary statements of Ranjit Singh are not sufficient enough to, prima facie, establish conspiracy of the petitioner and that there is no PW in the name of Sagar joined in the investigation.

Learned State counsel, Ms.H.K.Athwal, assisted by the members of the investigation team has argued that there are sufficient circumstances on the record indicating the vindictiveness of the petitioner qua the deceased on account of deceased having left the employment of the petitioner. The petitioner wanted to teach a lesson to the deceased, his ex-employee. It has been argued that confessional statement of Amit Doda that lesson was to be taught to the deceased and that the petitioner talked to Amit Doda, at the time of the occurrence on the telephone reflects that the petitioner was aware of the incident at his farmhouse and prior meeting of mind of Amit Doda and Harpreet Singh is prima facie established. Emphasis was laid regarding the connivance of the petitioner, on the ground that occurrence having taken place in the farm house of the petitioner, it cannot be presumed that he was not informed by any one or he did not connive with Amit Doda, his close relation, and Harpreet Singh. Learned State counsel has further argued that Amit Doda has made a confession regarding connivance of the petitioner

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but his statement is not indicative of any such admission by him even in police custody.

Mr.Anupam Gupta, learned senior counsel for complainant has vehemently opposed the application for pre-arrest bail relying upon certain photographs indicating the close proximity of the petitioner with political leaders. He has brought to the notice of this Court the photographs of amputated hands and feet of the deceased to contend that brutal crime committed in the premises of the petitioner cannot be said to be without his knowledge or connivance.

So far as the relevant and admissible evidence pertaining to conspiracy is concerned, Mr.Anupam Gupta, learned senior counsel has urged that the Investigating Agency is not fairly investigating the matter in order to help the petitioner as he is rich and influential person capable of maneuvering the investigation. He has gone to the extent of arguing that in the absence of petitioner, the farmhouse had been used by the senior local police officers for residence. It was urged that no senior police official would dare to permit the inclusion of name of petitioner on account of his influence. He urged that there are serious allegations against the accused who have been arrested having abused the deceased in the name of his caste. He has also argued that the evidence is intentionally not being collected by the Investigating Agency.

I have heard the learned senior counsel for the

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petitioner, learned State counsel as well as the learned senior counsel for the complainant and gone through the police file and also questioned the members of the investigation team regarding the scientific investigation conducted regarding telephone calls and tower location of persons calling the petitioner or the other accused; the tower locations of the other accused and their connection with the petitioner; any statements having been recorded regarding the employment of the deceased with the petitioner; any investigation done regarding the activities of the deceased or the accused and the petitioner regarding any probable motive; and the conspiracy alleged. It is not out of place to observe here that the investigation qua the conspiracy of the petitioner is being taken casually for the unknown reasons. Even the learned State counsel has gone to the extent of submitting that on account of the strong following of the petitioner and the local protest against the police, it is not feasible to proceed against the petitioner.

Taking into consideration the totality of above said reasons, I am of the considered opinion that the following circumstances would not permit this Court to grant pre-arrest bail to the petitioner: -

- i) investigation by the police qua the petitioner apparently already being casual and ineffective;
- ii) the investigating agency having not adopted effective scientific measures to determine the culpability of the

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petitioner and his connectivity with the other accused by taking proper measures;

iii) the strained relationship of deceased with the management of the petitioner;

iv) the deceased having defied and left the services of the petitioner to his displeasure;

v) he having been brutally murdered in the farmhouse of the petitioner by the close associates and employees of the petitioner; and

vi) the evidence being collected regarding implied consent of the petitioner by his evasive approach adopted till date.

All the factors are indicative of the fact that it is not a case where extra ordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioner. Grant of pre-arrest bail to the petitioner in the present case is certainly going to hamper the investigation. The police file does not indicate the statutory provisions of Section 41-A (1) of the Code of Criminal Procedure having been adopted for making attempts to associate the petitioner. The grant of pre-arrest bail to the petitioner in the present case will defeat the fair and effective investigation and the denial of custodial interrogation for eliciting useful information and material would cause a serious prejudice to the investigation.

This Court has avoided any observations, at this

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stage, regarding admissibility and relevance of the evidence which has been collected till date lest it should affect the merits of the case, at the trial.

A perusal of the police file indicates that investigation qua the petitioner is at just threshold and lot more is required to be enquired into for the purpose of determining the culpability of the petitioner.

In view of above, the petition for the grant of pre-arrest bail to the petitioner is dismissed.

January 21, 2016.
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(M.M.S. BEDI)
JUDGE