

Sr. No.204

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No.M-42259 of 2015 (O&M)
Date of Decision: 17.05.2016

Karam Chand ... Petitioner

Versus

State of Haryana ... Respondent

CRM No.M-1296 of 2016 (O&M)

Pardeep @ Kala and another ... Petitioners

Versus

State of Haryana and another ... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Arvind Bansal, Advocate,
for the petitioner(s).

Mr. Vivek Saini, DAG, Haryana.

Ms. Rahish Pahwa, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.(ORAL)

This order shall dispose of CRM Nos. M-42259 of 2015 titled as Karam Chand Vs. State of Haryana and CRM No.M-1296 of 2016 titled as Pardeep @ Kala and another Vs. State of Haryana and another as both these petitions have been filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner(s) herein in case FIR No. 58 dated 24.04.2015, under Section 302 of the Indian Penal Code, registered at Police Station Rajound, District

Kaithal.

During the course of arguments, it has gone uncontroverted that the petitioner(s) in these two connected petitions had been found innocent during the course of investigation but thereafter on account of an application moved by the prosecution under Section 319 Cr.P.C. having been allowed they have been summoned to face trial as additional accused in the light of order dated 20.11.2015, passed by the trial Court.

On 07.01.2016, the following order was passed by this Court in CRM No. M-42259 of 2015:-

“The present petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.58 dated 24.04.2015, under Section 302 IPC, registered at Police Station Rajound, District Kaithal.

Counsel for the petitioner submits that during the course of investigation petitioner had been found innocent and it is only in pursuance of the application filed under Section 319 Cr.P.C. that the petitioner along with his two sons have been summoned as additional accused vide order dated 20.11.2015 passed by learned Additional Sessions Judge, Kaithal.

Perusal of such order, which has been produced in Court today, would reveal that the Court has taken into consideration the fact that name of the present petitioner has been named in the FIR and the complainant Bheem Singh has stood by his version while he was being examined before the Court as PW-1.

The allegations against the present petitioner are with regard to having given beatings to deceased Krishan with fists and having given slaps and kick blows also.

Counsel submits that as per post mortem report of deceased Krishan only reddish brown abrasions were noticed on ankle, nose, neck and elbow. That apart, counsel would submit that the report of chemical examiner has pointed that from sample of liver, spleen, kidneys, heart, stomach, small and large intestine and blood from heart positive findings for Ethyl Alcohol to the extent of 80.5% have been returned. The contention raised is that the deceased was addicted to alcohol and even if giving beatings etc. is taken to be correct, still issue with regard to offence under Section 302 IPC is made out would be a moot question to be taken up during the course of trial.

In view of the circumstances recorded herein above, this Court is of the considered view that the petitioner is entitled to ad-interim protection as regards arrest.

Adjourned to 23.02.2016

In the event of the petitioner duly appearing before the trial Court today itself, he would be entitled to the concession of ad-interim bail subject to the satisfaction of trial Court/Duty Magistrate.

A copy of this order be given to the counsel for the petitioner under signatures of Bench Secretary of this Court.”

Likewise, while issuing notice of motion in CRM No.M-1296 of 2016, the following order was passed by this Court on 14.01.2016:-

“Counsel would submit that the present petitioners along with two others have been summoned as additional accused vide order dated 20.11.2015 passed by learned Additional Sessions Judge, Kaithal while allowing an application under Section 319 Cr.P.C.

Counsel submits that in respect of the father of the present petitioners who has also been summoned as additional accused, this Court in terms of order dated 07.01.2016 passed in CRM No.42259 of 2015 has issued notice of motion and has granted the concession of ad interim bail.

Notice of motion, returnable on 23.02.2016.

In the meanwhile, it is directed that in case the petitioners duly appear before the trial Court within a period of 10 days from today, they would be entitled to ad interim protection as regards arrest subject to the satisfaction of the trial Court.

To be listed along with CRM No.42259 of 2015.”

State counsel as also counsel appearing for the complainant do not dispute the factual position that the petitioner(s) in these two petitions have since joined trial proceedings and have been appeared before the trial Court even admitted to interim bail upon furnishing requisite bail bonds.

In view of such factual position whereby the petitioner(s) have already joined trial proceedings, prayer made in these two petitions is accepted.

Orders dated 07.01.2016, passed in CRM No.M-42259 of 2015 and order dated 14.01.2016, passed in CRM No.M-1296 of 2016 are made absolute.

It is observed that if at any point of time during the course of trial, the petitioner(s) attempt to threat/influence or intimidate the prosecution witnesses or any attempt is made to hamper or influence the fair and free trial, it would always be open for the

State/Complainant to file appropriate proceedings for cancellation of the concession granted.

Petitions disposed of.

17.05.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**