

**Sr. No. 203
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM No. M- 6552 of 2015 (O&M)

Date of Decision: 31.03.2016

Gaurav Patial

..Petitioner

Versus

State of Punjab

...Respondent

CRM No.M-6618 of 2015

Harpreet Singh Toor

...Petitioner

Versus

State of Punjab

...Respondent

CRM No.M-7294 of 2015

Rupinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present:- Mr. A.D.S.Sukhija, Advocate,
for the petitioner in CRM No.M-6552 of 2015.

Mr.S.S.Rangi, Advocate,
for the petitioner in CRM No.M-6618 of 2015.

Mr. H.S.Randhawa, Advocate,
for the petitioner in CRM No.M-7294 of 2015.

Mr. D.S.Virk, AAG, Punjab.

Mr. Ashok Giri, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA. J (ORAL)

This order shall dispose of CRM Nos.M-6552 of 2015
titled Gaurav Patial Vs. State of Punjab, CRM No.M-6618 of 2015
titled Harpreet Singh Toor Vs. State of Punjab and CRM No.M-7294

of 2015 titled Rupinder Singh Vs. State of Punjab as these three connected petitions have been filed under Section 438 Cr.P.C. seeking benefit of pre-arrest bail to the petitioners in case FIR No.147 dated 08.07.2014, under Sections 302, 341, 506, 148, 149 of Indian Penal Code and Section 25/54/59 of Arms Act, registered at Police Station Sohana, SAS Nagar, Mohali.

Counsel for the parties have been heard.

It is the common case of the parties that the petitioners in these three petitions had been found to be innocent during the course of investigation but thereafter were summoned to face trial as additional accused on account of an application under Section 319 Cr.P.C. moved by the prosecution having been allowed.

On 19.03.2015 while issuing notice of motion in CRM No.M-7294 of 2015, the following order was passed by this Court:

“CRM No.8710 of 2015

Application is allowed as prayed for.

Post Mortem Report is taken on record as Annexure P-6.

CRM No. M-7294 of 2015

This is a petition under section 438 Cr.P.C seeking the benefit of pre-arrest bail to the petitioners in case FIR No.147 dated 8.7.2014 under Sections 302, 341, 506, 148, 149 I.P.C and section 25 of Arms Act, registered at Police Station, Sohana.

Counsel would submit that during the course of investigation a Special Investigation Team was constituted and the present petitioner had been exonerated. However, in pursuance to an application under Section 319 Cr.P.C having been filed, he has been summoned as an additional accused.

Counsel would refer to the statement of Major Singh, complainant on the basis of which the F.I.R was registered and as per which a Kirch blow has been attributed to the present petitioner which had allegedly hit on the neck of the deceased Gurjant Singh. Counsel has thereafter referred to the Post Mortem Report as per which there is only one injury bearing no.21 which is a surgical wound 2.2 x 1.0 cm on the neck and which has been opined to be post mortem in nature. It is argued that the petitioner is otherwise ready and willing to join trial.

Notice of motion, returnable for 24.4.2015.

In the meantime, petitioner is directed to appear before the Trial Court on the date already fixed i.e. 8.4.2015 and in case he does so, he would be released on interim bail subject to satisfaction of the Trial Court.”

On 27.02.2015 while issuing notice of motion in CRM No.M-6618 of 2015, the following order was passed by this Court:

Petitioner had allegedly pointed pistol at Major Singh wh is an eye-witness. He was earlier declared innocent. Having been summoned under Section 319 Cr.P.C., apprehending arrest petitioner has filed this petition for pre-arrest bail.

Notice of motion for April 24, 2015.

Meanwhile, an interim direction is issued that the petitioner will put in appearance before the trial Court within a period of 15 days and in case of his doing so, he will be released on interim bail to the satisfaction of the said Court.

Interim order will not ipso facto confer the right to get the benefit of pre-arrest bail in the case.”

Likewise, notice of motion order dated 27.02.2015 in CRM No.M-6552 of 2015 passed in following terms:

“Petitioner has been attributed kirpan blow on the chest and neck of the deceased but he was found innocent.

Having been summoned under Section 319 Cr.P.C., apprehending arrest petitioner has filed this petition for pre-arrest bail.

Counsel for the complainant, Mr. Ashok Giri has intervened to oppose the petition for bail on the ground that there are three other criminal cases pending against the petitioner.

Counsel for the petitioner has submitted that there is no injury on the neck as per the post mortem report and that the injury on the chest of the deceased is a superficial injury.

Notice of motion for April 24, 2015.

Meanwhile, an interim direction is issued that the petitioner will put in appearance before the trial Court within a period of 15 days and in case of his doing so, he will be released on interim bail to the satisfaction of the said Court.

Interim order will not ipso facto confer the right to get the benefit of pre-arrest bail in the case.”

It has gone uncontroverted that the petitioners in these three petitions have since joined trial proceedings and were admitted to interim bail in terms of the directions issued by this Court.

Learned State counsel has apprised the Court that the trial has since made substantial progress inasmuch as the entire prosecution evidence stands concluded and now the matter is fixed for defence evidence on 06.04.2016.

Under such circumstances, this Court is inclined to grant the relief sought for in these petitions.

Petitions are allowed. Orders dated 27.02.2015 in CRM No.M-6552 of 2015 and 27.02.2015 in CRM No.M-6618 of 2015 and 19.03.2015 in CRM No.M-7294 of 2015, passed by this Court, are made absolute.

It is, however, made clear that disposal of the present petitions in terms of the relief prayed for would have no bearing on the merits of the trial.

Disposed of.

31.03.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**