

**Sr. No. 105
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM No. M-7380 of 2016
Date of Decision: 01.03.2016**

Sarabjit Kaur and others

...Petitioners

Versus

State of Punjab and another

... Respondents

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

Present:- Mr. Amaninder Preet, Advocate,
for the petitioners.

TEJINDER SINGH DHINDSA. J (ORAL)

Present petition has been filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioners in criminal complaint No.RT-134 dated 14.03.2011 instituted on 15.03.2011 under Sections 302, 34 of Indian Penal Code titled as "Gurmail Singh Vs. Sarabjit Kaur and others".

Counsel would submit that the petitioners have been summoned in pursuance to a false and frivolous complaint lodged by Gurmail Singh i.e. father of deceased Sukhwinder Singh. It has been submitted that Sukhwinder Singh was married to petitioner No.1 here-in-above i.e. Sarabjit Kaur in the year 2006. Petitioners No.2, 3 and 4 are the father, mother and brother respectively of petitioner No.1. Counsel would submit that on 01.07.2010 in the late evening hours husband of petitioner No.1 had come to village Chugha Kalan to take back petitioner No.1 as also his two minor daughters to the matrimonial home but his health started deteriorating suddenly and

whereupon he was taken to Civil Hospital, Moga but unfortunately expired.

Counsel would argue that complainant had made a categorical statement on 02.07.2010 i.e. on the following day that his son had died on account of a natural and sudden death and that nobody is responsible for the same. It is contended that the complaint has been filed thereafter and suffers from an inordinate delay and has been filed with an oblique motive to implicate not only petitioner No.1 i.e. wife of the deceased but also all the other family members. Heavy reliance has also placed upon an inquiry report dated 23.03.2011 submitted by DSP Dharamkot wherein it had been concluded that the death of Sukhwinder Singh was sudden and natural.

Having heard counsel for the petitioners at length and having perused the pleadings on record, this Court is not inclined to extend the concession of pre-arrest bail to the petitioners.

Perusal of the complaint filed by Gurmail Singh i.e. father of the deceased and placed on record at Annexure P-1 would show that marriage between deceased Sukhwinder Singh and petitioner No.1 took place on 19.03.2006 and out of this wedlock two daughters were born. There are accusations that petitioner No.1 was leading a wayward life and was indulging in immoral acts and in spite of having been counselled her behaviour did not improve. Complainant further asserted that he along with his wife Parkash Kaur, son Sukhwinder Singh (since deceased) had gone to the parental home of petitioner No.1 and even brought it to the notice of father, mother and brother

of petitioner No.1 as regards her wayward behaviour. It is alleged that rather than taking any remedial action in the matter, the present petitioners No.2, 3 and 4 had got annoyed and called upon the complainant not to disturb the freedom of their daughter Sarabjit Kaur i.e. petitioner No.1.

In the last week of June 2010, Sarabjit Kaur is stated to have left her matrimonial home in the absence of her husband and taken her children along with her. On 30.06.2010, petitioner No.2 i.e. Nachhattar Singh is stated to have come to the house of the complainant and had called upon Sukhwinder Singh (since deceased) to come to village Chugha Kalan to take back his wife Sarabjit Kaur to the matrimonial home. On 01.07.2010, Sukhwinder Singh reached village Chugha Kalan at about 4.30 p.m. and at about 6.00 p.m. he gave a call from his mobile No.99886-65851 to his mother Parkash Kaur on mobile No.97799-78155 informing her that he had been served nimbu pani as well as tea prepared by Sarabjit Kaur (petitioner No.1) and Mohinder Kaur (petitioner No.3) and which was served by petitioner No.4 Tirath Singh in the presence of Nachhattar Singh petitioner No.2 and thereafter his health was deteriorating. Complainant further asserted that on the same very day i.e. 01.07.2010 at about 8.30 p.m. petitioner No.2 i.e. Nachhattar Singh informed Parkash Kaur i.e. mother of the deceased on the mobile that condition of Sukhwinder Singh has become very serious and he is being taken to Civil Hospital, Moga. Complainant along with his wife immediately proceeded towards Civil Hospital, Moga and reaching thereupon they came to know that their son had

already died.

During the course of arguments, it has gone uncontroverted that after post-mortem report, samples were sent to the Chemical Examiner/Forensic Science Laboratory. Report of the Chemical Examiner was received and based thereupon it has been opined that Sukhwinder Singh has died by consuming Organophosphorus i.e. a poisonous substance.

Insofar as the inquiry report dated 23.03.2011 submitted by DSP Dharamkot and placed on record at Annexure P-7 is concerned and upon which heavy reliance was placed by the counsel for the petitioners, the same has been taken notice of and dealt with even by the learned Judicial Magistrate Ist Class, Moga in the summoning order dated 16.11.2015 and the relevant observations by which such report has been condemned are in the following terms:

“The application moved by Parkash Kaur to SSP, Moga was proved as Ex CW4/A on which an inquiry was conducted by DSP Dharamkot in which it was concluded that Sukhwinder Singh had died a natural death and no further action was recommended. The observations made by the D.S.P. In his self styled inquiry are indeed disquieting and factually inaccurate. He had observed that according to the report of the chemical examiner, Sukhwinder Singh had died a natural death, though abrupt and unforeseen. Even a fleeting glance upon the report of the chemical examiner Ex CW5/D and the supplementary report Ex CW5/E reflects the fact that Sukhwinder Singh had died due to poisoning. Therefore, the question of natural death of Sukhwinder Singh does not

arise.”

Further more, even the statement that is alleged to have been made by the complainant on 02.07.2010 (Annexure P-3) as regards his son having died a natural death has been explained by the complainant in his deposition before the learned Judicial Magistrate Ist Class, Moga as CW2 by stating that the police officials had misled him while procuring the signatures on a blank document. Even in the complaint, it has been specifically averred that post-mortem examination was conducted on 02.07.2010 and at the time of inquest proceedings, the police officials took signatures of the complainant as also his family members on certain documents on the pretext that they will get the dead body only upon signing such documents.

In the light of such serious allegations wherein son of the complainant has died in the house of his in-laws and that too on account of poisoning, this Court does not find any infirmity in the impugned order dated 17.02.2016 passed by the learned Additional Sessions Judge, Moga declining concession of pre-arrest bail.

Petition dismissed.

01.03.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**