

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

(1)

CRM No.M-7851 of 2016 (O&M)

Kabir Sharma

...Petitioner

Versus

State of Punjab and another

...Respondents

(2)

CRM No.M-13446 of 2016 (O&M)

Hawaladar Amrik Singh Bamb

...Petitioner

Versus

Bua Singh

...Respondent

Date of Decision: August 04, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajiv Kataria, Advocate
for the petitioner (in CRM No.M-7851 of 2016).

Mr.Sarabjit Singh, Advocate
for the petitioner (in CRM No.M-13446 of 2016).

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.P.B.S.Goraya, Advocate
for respondent No.2 (in CRM No.M-7851 of 2016) and
for respondent (in CRM No.M-13446 of 2016).

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together being
arisen from same complaint case.

for grant of anticipatory bail in complaint case RBT No.12 dated 24.09.2011/31.05.2014 titled as 'Bua Singh vs. Ashok Kumar and others' in which they have been summoned by learned JMIC, Amritsar vide order dated 23.01.2015 to face trial along with others under Sections 302, 364 and 120-B IPC.

Notice of motion was issued in both the cases. Learned State counsel as well as learned counsel for private respondent appeared and contested the petitions.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that accused have been summoned on the basis of complaint filed by Bua Singh against Ashok Kumar alias Kocha and other accused under Sections 302, 364, 201 and 120-B IPC. As per the complainant, on 27.07.2011, a quarrel had taken place between complainant and Ajay Kumar, who is worker of political party and close associate of MLA. An FIR No.253/2011 under Sections 342, 379, 367, 506, 148 and 149 IPC was registered at Police Station Civil Lines, Amritsar. It is the case of the complainant that on 27.07.2011 ASI Paramjit Singh and other police officials arrested brothers of complainant namely Bawa Singh and Balwinder Singh @ Bind. Thereafter, the complainant and others approached the police chowki, where ASI Dilbagh Singh was present but the police kept on making excuses and told that they will release Bawa Singh. On 28.07.2011, the inhabitants of town again went to police chowki, Faijpura and they came to know that Bawa Singh has been sent to Police Station Majitha Road. SI Harish Behal was Incharge of the said police station. When they reached Police Station Majitha Road, accused No.8

Kabir Sharma, P.A. to MLA was present there and the police misbehaved with them and did not allow the complainant to meet his brother Bawa Singh. It is alleged that police had beaten Bawa Singh in police chowki. The complainant and others also approached MLA but he told the complainant that his brother used to oppose him and now he is in their custody. It is also the case of the complainant that when high officials were not present in the police station, then guard/sanitary of the police station allowed them to meet Bawa Singh, who on seeing them started crying and told them that he is being maltreated by the police. He also told that MLA had come to police station and got beaten him and also humiliated him. There is allegation that Bawa Singh was tortured by the police at the instance of other accused. On 30.07.2011, Bawa Singh was sent to Central Jail. On 01.08.2011, mother-in-law of Bawa Singh went to Central Jail to meet Bawa Singh but he was not brought from inside by the jail staff and it is alleged that no medical treatment of Bawa Singh was got conducted in the jail and the complainant came to know on 02.08.2011 regarding the post-mortem of the dead body of Bawa Singh.

Learned counsel for the petitioners argued that the deceased was arrested in FIR on 29.07.2011 and produced before the Court. On 29.07.2011, he was medico legally examined. After one day police remand, again on 30.07.2011, Bawa Singh was medico legally examined and the doctor gave the opinion that no fresh injury was found. On 01.08.2011, when he was in judicial custody inside the jail, he died there. Inquest proceedings by learned JMJC were conducted. Statements of inmates and doctors were also recorded. Learned counsel for the petitioners further

argued that a fight took place between the deceased and some jail inmates.

I have gone through the documents placed on the record.

As per the complainant's version, it is case of custodial death by alleging that police officials at the instance of private respondents tortured Bawa Singh and due to injuries, he died in the jail. There are specific allegations that Bawa Singh was tortured at the instance of Kabir Sharma, who was present in the police station. There is also specific allegation against petitioner Amrik Singh Bamb, who was stated to have also tortured the deceased in the police station.

I have gone through the inquest report prepared by learned JMIC and also gone through the medical examination reports of the doctors and other documents placed on record. As per the post-mortem examination report, there were 12 injuries on the person of Bawa Singh.

Keeping in view the facts and circumstances of the case, nature and gravity of the offence, and without discussing the merits of the case in minute details and without expressing any opinion on the merits of the case, I do not find it a fit case where petitioners are entitled to benefit of grant of anticipatory bail.

Therefore, finding no merit in both the petitions, the same are dismissed.

August 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No