

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-9423 of 2016 (O&M)
Date of Decision: 04.04.2016

Raju @ Raj Giri

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Achin Gupta, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

CRM No.10544 of 2016

Application is allowed as prayed for.

Documents at Annexures P-4 to P-6 are taken on record.

CRM No.10545 of 2016

Application is allowed as prayed for.

Main Case

The present petition has been filed under Section 438 Cr.P.C seeking the concession of anticipatory bail to the petitioners in case F.I.R. No.64 dated 18.5.2015 under sections 302, 323, 148, 149 I.P.C (summoning order under sections 302, 323, 34 I.P.C), registered at Police Station City Kotkapura, District Faridkot.

Counsel for the petitioner would vehemently contend that during the course of investigation the petitioner was found innocent and as such, had not been nominated as an accused and it is only thereafter on account of an application under Section 319 Cr.P.C moved by the prosecution having been allowed that the petitioner has been summoned to face trial as an additional accused. Contention raised is that the entire purpose in such matters is for the additional accused to join trial

proceedings and which the petitioner is ready and willing to do so. It is further submitted that under such circumstances custodial interrogation of the petitioner would not be warranted.

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

Brief facts that would require notice are that the F.I.R in question came to be registered on the statement of Joginder Singh. Deceased is Beant Singh i.e. son of the complainant. Occurrence is stated to be of 17.5.2015. In so far as the present petitioner is concerned, he was stated to be armed with a *Kappa* i.e. a sharp edged weapon and it was asserted by the complainant that the present petitioner as also other unknown assailants had caused injuries upon Beant Singh.

During the course of arguments today, the deposition and statement of Joginder Singh i.e. father of the deceased as PW-1 has been adverted to. Complainant has stood by his initial version as recorded and which led to the registration of the F.I.R. Even the statement of injured Naresh Kumar @ Neshi recorded under section 161 Cr.P.C has been referred to and in which there is a specific attribution to the present petitioner of being armed with a *Kappa* and having given blows on the forehead and nose of Beant Singh (since deceased).

The Post Mortem Report placed on record as P-6 corroborates the statement of injured Naresh Kumar @ Neshi as regards injuries on the head of deceased Beant Singh. The cause of death has been opined to be the cranio-cerebral damage i.e. the head injury suffered by the deceased.

On a specific query having been put counsel for the petitioner would concede that co-accused are still in custody and one Gulshan is on the run and has evaded the process of law.

Keeping in view the gravity of offence and the brutal manner in which the offence was committed, the specific role and injury attributed to the petitioner, this Court is of the considered view that in case the petitioner is insulated by an order of anticipatory bail, there would be every possibility of the petitioner attempting to intimidate the witnesses and thereby thwarting the process of a free and fair trial.

In the totality of the circumstance noticed herein above, prayer of the petitioner seeking concession of pre-arrest bail, as such, cannot be accepted.

Petition is dismissed.

It is, however, clarified that the observations contained in this order are confined only as regards considering the prayer of the petitioner for grant of concession of pre-arrest bail and would have no bearing on the merits of the case.

(TEJINDER SINGH DHINDSA)
JUDGE

04.04.2016

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