

CRM-M-18419-2016

Date of decision:21.02.2017

Jagdeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

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

Present: Ms. Supriya Garg, Advocate
for the petitioner.

Ms. Harpreet K. Athwal, DAG, Punjab.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of the present petition filed under Section 438 Cr.P.C. seeking the concession of pre-arrest bail to the petitioner in case FIR No.111 dated 23.07.2005, under Sections 302/148/149 IPC, registered at Police Station Dakha, District Ludhiana.

On 28.05.2016, while issuing notice of motion, the following order was passed by this Court:

“The present petition has been filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.111 dated 23.07.2005, under Sections 302/148/149 of Indian Penal Code, registered at Police Station Dakha, District Jagraon.

Deceased in the present case is Amarjeet Singh and whose body was retrieved from a well on 11.07.2005.

Counsel submits that wife and son of the deceased had suffered statements that Amarjeet Singh had died on account of a sudden and accidental fall in the well. Further contended that during the course of investigation and in which the petitioner had duly associated he was found innocent and even a cancellation report had been submitted. However, the

cancellation report has not been accepted by the competent Magistrate and the matter has been referred back to the Police for further investigation. It is contended that now a Special Investigation Team has been constituted by the Senior Superintendent of Police, Ludhiana and the petitioner would be ready and willing to even associate and cooperate with the SIT that has been constituted.

Further contention raised by counsel is that the cancellation report had not been accepted by the Court apparently in the light of an opinion rendered by two doctors on 15.07.2005 wherein it had been noticed that there were as many as 18 injuries on the person of the deceased and the same could not have been caused only on account of the fall in a tubewell. In this regard, counsel has even adverted to a subsequent opinion rendered on 29.09.2005 by the Board of Doctors and in which it has been opined that the possibility of all the 18 injuries on the dead body of Amarjeet Singh by fall in the well having depth of 23 feet 4 inches having a motor, a girdir and a shaft cannot be ruled out.

Notice of motion, returnable for 08.09.2016.

In the meanwhile, petitioner is directed to join investigation and duly appear before the Special Investigation Team.

In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438(2) Cr.P.C.”

It has gone uncontroverted that in pursuance to the Special Investigation Team having been constituted, a report has since been submitted and on the basis thereof even the challan has been presented and the petitioner has been nominated as an accused.

That apart it would be apposit to notice that the FIR had been registered on the statement of father of the deceased and the allegation precisely against the present petitioner is that of last seen as the father had asserted that his son had gone along with the present petitioner on 10.07.2005 and thereafter, he had not returned home.

In view of such factual position, this Court is of the considered view that custodial interrogation of the petitioner as such would not be warranted.

Accordingly, the present petition is allowed. Order dated 28.05.2016 passed by this Court is made absolute.

Disposed of.

21.02.2017

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(TEJINDER SINGH DHINDSA)
JUDGE

Whether Speaking/Reasoned Yes

Whether Reportable No