

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30724-2016 (O&M)
Date of decision: March 17, 2017.

Harjinder Singh

... **Petitioner**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri V. Kanagaraj, Senior Advocate with
Shri Sudhir Mittal, Advocate for the petitioner.

Shri Arshdeep Kler, Deputy Advocate General, Punjab.

Shri H.S. Brar, Advocate for the complainant.

A.B. Chaudhari, J. (Oral):

Heard learned counsel for the rival parties, including the
counsel for the complainant.

Counsel for the State as also the counsel for the complainant
have vehemently opposed the present petition for grant of anticipatory bail.
The petitioner apprehends his arrest in FIR No.61 dated 27.11.2010, under
Sections 302, 201, 120-B IPC, registered at Police Station Mullapur
Garibda, District Mohali.

Undoubtedly, the deceased was killed in a very brutal manner
and there can be no two opinion about it. The deceased was killed by
putting him on fire in the car and he being in a tied position by means of a
chain. The petitioner is stated to be one of the persons who had committed
the offence.

Learned counsel for the complainant has vehemently opposed the petition for grant of anticipatory bail inviting my attention to order dated 29.3.2016 made in CRM-M-1586-2016. I have perused that order. The order shows that the petition was argued and was withdrawn. I do not want to go into the contention raised by the counsel for the petitioner that the Advocate was not authorized to withdraw the petition as there is not even a whisper in this petition. Be that as it may, I find that the said order of withdrawal was made a year before and now after a year, present petition for anticipatory bail has been filed. Undoubtedly, the court is under a duty to take note of the fact that a similar petition was filed earlier but that was dismissed as withdrawn. At the same time, this Court cannot ignore as to what legal evidence has been collected in one year against the petitioner. Learned counsel for the complainant has submitted that by way of narco analysis test as also the disclosure statement made by the co-accused Raj Kumar, evidence has surfaced which nails the petitioner as his name has been taken. Counsel for the complainant further submits that call details and tower locations etc. have not been willfully collected by the police in order to help the accused persons.

If that is so, that is unfortunate as ultimately this Court is required to find out the legal evidence against the petitioner. Now considering the evidence against the petitioner, I find that the disclosure statement made by the co-accused in police custody would be no evidence against the petitioner and in so far as the other evidence is concerned, the same may not be admissible and at any rate, cannot be tampered but will form part and parcel of the court record.

Learned counsel for the complainant has made a grievance that the petitioner has not cooperated with the police in the investigation and therefore his custodial interrogation is required, more so when he has been declared a proclaimed offender. In my opinion, the PO order would not detain this Court from making the order. In so far as the question of interrogation and cooperation by the petitioner is concerned, needles to say that the petitioner is bound to attend the Investigating Officer and subject himself to interrogation. If the petitioner does not cooperate, obviously, the prosecution is at liberty to apply for cancellation of present order of grant of anticipatory bail.

In that view of the matter, looking to the nature of the evidence that is projected before this Court, I think the petitioner is entitled to the grant of anticipatory bail. Hence, the following order is made:-

ORDER

- (i) CRM-M-30724-2016 is allowed;
- (ii) the petitioner shall be released on bail in the event of his arrest in FIR No.61 dated 27.11.2010, under Sections 302, 201, 120-B IPC, registered at Police Station Mullapur Garibda, District Mohali;
- (iii) the petitioner shall attend the Investigating Officer on 21.3.2017 at 11 A.M.;
- (iv) the Investigating Officer shall be entitled to call him and interrogate every day or as the case may be but the interrogation shall be completed within a period of one month;

(v) in case of exigency, the State is permitted to apply for extension of interrogation time and/or for cancellation of this order.

March 17, 2017.

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[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No