

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

CRM-M No.38513 of 2017

Date of Decision : 17.10.2017

Sukhdev Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Amandeep Singh, Advocate
for the petitioners.

Ms. Monika Jalota, Deputy Advocate General, Punjab
for the respondent-State assisted by
ASI Hardeep Singh.

Mr. Manuj Nagrath, Advocate
for the complainant.

SUDIP AHLUWALIA, J. (ORAL)

The instant petition has been filed under Section 438 of the Code of Criminal Procedure (for short, 'the Cr.P.C.') seeking regular bail on behalf of the petitioners in case FIR No.61 dated 30th April, 2017, registered under Section 302/34 of the Indian Penal Code and Sections 25, 27 of the Arms Act at Police Station Sadar Raikot, District Ludhiana.

2. The matter was sent up by way of commitment by the Ld. Judicial Magistrate 1st Class, Jagraon on 10th August, 2017. Thereafter,

the Ld. Sessions Court on consideration of the available material passed its impugned order (Annexure P-3) on 18th September, 2017 and directed summoning of the present petitioners along with one Harbans Kaur by way of non-bailable warrants. Admittedly, no formal application under Section 319 of the Cr.P.C. was filed before the Ld. Sessions Court. However, the fact that the attendance of the petitioner was sought to be secured after the case had already been committed would leave no scope to doubt that such attendance could not have been ordered under any other provision of the Cr.P.C., except under Section 319 of the Cr.P.C.

3. The petitioners' prayer for bail is opposed on behalf of the complainant, whose contention is that the offences imputed are extremely grave in nature and that the petitioners are guilty of having concealed the fact that they had already been convicted in an earlier criminal proceeding arising out the FIR No.111 dated 23rd December, 2007 of Police Station Raikot. This submission is countered on behalf of the petitioners by contending that the question of concealment would not arise inasmuch as FIR in the present case, which is Annexure P-1 to the present petition itself mentions about previous conviction of the petitioners.

4. Various Co-ordinate Benches of this Court have granted anticipatory bail to applicants summoned to face trial under Section 319 of the Cr.P.C. involving similarly equal heinous/grievous

offences by relying upon the decision of the Hon'ble Supreme Court in ***Gurbaksh Singh Sibbia etc vs. State of Punjab, 1980 AIR (SC) 1632*** and a decision of Co-ordinate Bench of this Court in ***Bajinder Singh and another vs. State of Punjab-CRM-M No.13285 of 2015***. It has been held *inter alia* in those decisions that as the petitioners were being summoned for trial after they had been originally sent up by the Investigating Officer, they were clearly, “not required for the purpose of investigation”.

5. The case of the present petitioners is similar to those covered in the aforesaid decisions. Further it transpires that the third accused, namely Harbans Kaur summoned vide the same impugned order had already been granted bail by a Co-ordinate Bench of this Court in CRM-M No.36550 of 2017 on 28th September, 2017.

6. This Court, therefore, finds no reason to deny the same benefit to the present petitioners, namely Sukhdev Singh and Jugraj Singh. They are accordingly, ordered to be released on anticipatory bail to the satisfaction of the Ld. Trial Court subject to compliance of all the applicable terms and conditions under Section 438 (2) of the Cr.P.C.

7. Disposed off.

October 17, 2017

Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No