

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : April 20, 2017

1. Criminal Misc. No. M-39572 of 2016

Davinder Singh @ Binder

....Petitioner

versus

State of Punjab

....Respondent

2. Criminal Misc. No. M-34562 of 2016

Pardeep Singh

....Petitioner

versus

State of Punjab

....Respondent

3. Criminal Misc. No. M-38227 of 2016

Pardeep Singh

....Petitioner

versus

State of Punjab

....Respondent

4. Criminal Misc. No. M-38220 of 2016

Sandeep Singh

....Petitioner

versus

State of Punjab

....Respondent

5. Criminal Misc. No. M-29401 of 2016

Sandeep Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Varun Baanth, Advocate, for petitioner-Davinder Singh @ Binder

Mr. Jagjit Singh, Advocate, for petitioners Pardeep Singh and Sandeep Singh

Mr. Gurveer Sidhu, AAG, Punjab, for the respondent/State

Mr. Raju Chopra, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

The above detailed in all five bail applications including two supplementary bail applications all under section 438 Code of Criminal Procedure have been preferred, two on behalf of petitioner Pardeep Singh and Sandeep Singh each and one on behalf of petitioner Davinder Singh @ Binder, having arisen out of the same FIR are being disposed off together by this common order.

The brief allegations of complainant Sukhwinder Singh are that on 30.6.2016, he along with Sukhraj Singh, Gurdeep Singh and Joga Singh (who is also referred to as Joga Singh Khalistania) were going to village Chuaharpur to see brother of Sukhraj Singh on their motorcycles when about 10.00 PM, a little ahead of petrol pump in the area of Bachan Singh Marg from the rear side one Innova vehicle bearing No. PB-13X-7418 came at high speed and struck against the motorcycles as a consequence of which they fell down and received injuries. The complainant along with injured Joga Singh, Sukhraj Singh and Gurdeep Singh were rushed to DMC Hospital, Ludhiana leading to registration of present FIR initially under section 307 IPC and subsequent to death of injured Joga Singh on 12.8.2016 offence under section 302 IPC was added.

On behalf of the petitioners it has been contended that Davinder Singh was initially arrested at the time when offence under section 307 IPC was there and has been allowed regular bail by the trial court and thus, no case for his subsequent custodial interrogation with the addition of offence under section 302 IPC is made out. Arguing further it is submitted that petitioners Sandeep Singh and Pardeep Singh have neither been named in the FIR nor have been identified and only unidentified person who is depicted to be the driver has come about and subsequently at a belated stage, names of petitioners have come about on account of rivalry between the two sides and that nothing is to be recovered from the petitioners at this juncture and that the investigation and trial shall take long time to conclude.

On behalf of the State, bail applications are stoutly opposed by the learned State counsel assisted by counsel for the complainant submitting that being heinous crime of murder, custodial interrogation is essential as both the parties have previous enmity as earlier also criminal cases have been registered against each other and the occurrence at no point of time was ever termed to be a road accident and on behalf of the complainant, written arguments too have been submitted which need not be canvassed in details for the sake of brevity. It has sought to be averred that even subsequent to the registration of the present case, the PWs are being threatened and that the police is hand in glove with the accused as the recovery of Innova car is yet to be effected.

Appreciating the submissions of the two sides, the amount of

vociferacious arguments that have come during the course of numerous hearings of these matters and the heat that has been generated for a motivated cause with an oblique motive by the two sides are in itself suggestive more of war of wits and vengeance than of legitimate recourse to legal remedy. The FIR which is the document first in point of time got registered on the statement of complainant Sukhwinder Singh shows and abundantly reflects that while the complainant side was going on two motorcycles, on one Joga Singh and Sukhwinder Singh were going and on the other Sukhraj Singh and Gurdeep Singh were going, were hit around 10.00 PM night time from the rear side by Innova car. It has been emphatically detailed in the first information report that the Innova car which has been subsequently shown to be bearing registration No. PB-13X-7418 came at a very high speed and struck against both the motorcycles and it is the case from the side of accused that none has been identified at the time of occurrence. The State counsel squarely accepts that till date no test identification parade has been got conducted. It is not disputed in any manner that at the time of offence under section 307 IPC prior to the addition of section 302 IPC, petitioners Pardeep Singh and Sandeep Singh were granted anticipatory bail whereas petitioner Davinder Singh was allowed regular bail and thus, sufficiently have joined investigations and it is after much period of time with the death of Joga Singh offence under section 302 IPC has been added and belatedly names of the petitioners have cropped up. Even otherwise a perusal of the records shows a hair-line

difference which cannot be deciphered at this juncture if it was case of accident or intentional act with a motive to cause death or attempt on the lives of the motorcycle riders. The Court needs to be on its guard that both the sides have previous history of enmity and criminal cases have been registered against the two sides at the behest of the opposite party. Thus, in the light of the same, culpability if any shall be determined at the time of trial when the prosecution leads its evidence and it would be traversity of justice to send the petitioners behind bars at this juncture.

In view of the aforesaid, all the petitions are allowed and interim bail granted to petitioners vide orders dated 22.9.2016, 28.9.2016 and 25.10.2016 is made absolute till submission of report under Section 173 Cr.P.C. (challan). Thereafter, petitioners will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The observations made herein above shall not be binding on the trial court at the time of trial as these are purely for the disposal of the present bail application.

April 20, 2017
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No