

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M-4854-2017

Date of Decision: 06.03.2017

Virender and another

.....Petitioners

vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Puneet Mittal, Advocate, for
Mr. Sumeet Goel, Advocate,
for the petitioners.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

Mr. R.S. Hooda, Advocate,
for respondent no. 2-complainant.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, two petitioners seek to be admitted to pre-arrest bail, having been summoned by the learned trial Court upon a complaint instituted before it alleging therein the commission of offences punishable under Sections 195/201/218/302/364/120-B/148/149 IPC, by the six respondents-accused therein, of whom the present petitioners are two persons, i.e. Virender and Suresh.

2. The background of the complaint is that the complainant is stated to be the brother of one Rupa alias Rup Singh, who was having an affair with his co-villager, Rachna, sister of respondent no. 1 in the complaint. On 12.09.2012 they were stated to have been found in a compromising position, upon which Rachna was allegedly beaten and insulted by her family members and as per the allegation made in the

complaint, she was strangled by four persons, including her brother, and the present two petitioners. However, upon investigation it was found to be a case of suicide by the investigating agency and in fact FIR No. 355 was registered on 13.09.2012 against Rup Singh @ Rupa, Kanwar and Harveer.

On 14.09.2012, the complainant (in the complaint case from which the present petition arises), received information to the effect that an unknown person was lying at Kishan Singh Hospital, Hodal, whom the complainant, upon reaching the hospital, identified to be the dead body of his brother Rupa alias Rup Singh.

The complainant further alleged that having investigated the matter of own, he came to know that his brother Rupa was the seen in the company of three persons, i.e. the present two petitioners and one Jyoti son of Ajay, on 13.09.2012, at about 05:00 p.m. at the by-pass of Hodal. One Sukhbir is stated to have seen them all together.

He further found that his brother had been actually admitted to hospital as a victim of a road side accident. However, as per the complainant, there was no sign of any accident at the site. He is further stated to have come to know that his brother remained unconscious till his death, and though one Assistant Sub-Inspector is alleged to have been requested to investigate the case at Police Station Hodal, he told them that the deceased had committed suicide after consuming poison as revealed by the doctor who treated him in the hospital at Hodal.

Allegedly the complainant was also refused a copy of the MLR recorded at the time when the deceased was brought in an injured condition to the hospital.

On an application having been filed by him under the RTI Act, the complainant was given a reply to the effect that the deceased remained unconscious and did not make any statement during the time that he was alive in the hospital. Thereafter, as per the FSL report also, it was stated that Rup Singh alias Rupa had not consumed any poison as no poison was found in his viscera (as stated in the impugned order of the learned trial Court).

3. In the aforesaid background, the trial court recorded that the contention in the complaint was, in fact, that the accused had first murdered Rachna on 12.09.2012 and had thereafter lodged an FIR with false allegations against Rup Singh and others, and thereafter, had murdered Rup Singh on 13.09.2012, making it look like an accident.

Consequently, the trial Court, vide the impugned order, opined that it seemed to be a case of an 'honour killing' and therefore, there were sufficient grounds to proceed against four accused, including the present petitioners, for the alleged commission of offences punishable under Sections 148, 302, 364, 120-B read with Section 34 IPC, and as regards the 5th and 6th accused, for the alleged commission of offences punishable under Sections 201 and 218 IPC. Hence, all the accused, including the present two petitioners, were ordered to be “called through warrant of arrest through Superintendent of Police, Palwal for 30.1.2017”.

4. Hence, this petition came to be filed on 13.02.2017, seeking anticipatory bail in the face of the aforesaid order of the trial Court.

The matter has been adjourned thrice since then, asking learned counsel for the parties for placing on record the MLR and the DDR, which were thereafter produced before this Court and on 22.02.2017. On a contention made on that date that the complainant had been threatened by

the petitioners, and that he had made a complaint to the police control room with regard to the threat, learned State counsel had been directed to place on record any document with regard to the complaint made by the complainant.

5. Today, an affidavit of the Deputy Superintendent of Police, Palwal, has been filed by learned State counsel, to the effect that no complaint with regard to any quarrel with the complainant was received by the police in the months of January and February 2017. In fact, a statement of the complainant, Pappu alias Rattan Singh, has also been annexed with the affidavit, that no altercation had taken place with him and that he had not made any telephonic call or given any written complaint in that regard.

6. On the merits of the petition seeking anticipatory bail, learned counsel for the petitioner has relied upon an order of the hon'ble Supreme Court, in **Maninder Kaur and others** vs. **Teja Singh** (CRA No. 699 of 2000, dated 25.08.2000), wherein it was observed as follows-

“Normally, when a case is instituted on a complaint, summons to the accused to appear in the Court and on such being appearance, instead of being arrested, he would apply for bail. Unless there are compelling reasons, the Court would allow the accused to remain on bail, at least till the charge is framed. Even after charge is framed, the situation would be reconsidered if necessary, whether bail should be cancelled or not”.

7. Learned counsel for the complainant on the other hand has relied upon a judgment of the hon'ble Apex Court in **Singashan Singh** vs. **State of Bihar and others** (2015) 1 RCR (Criminal) 786, wherein in the context of a protest petition-cum-complaint instituted in the trial Court, alleging therein the commission of an offence punishable under Section 302 IPC, after reproducing Section 438 Cr.P.C. as also paragraph 13 of the

judgment in Gurbaksh Singh Sibbia and others vs. State of Punjab, AIR 1980 SC 1632, it was held as follows:-

“The High Court, however, without appreciating the nature of offence and gravity of the accusations against the respondents herein has enlarged the respondents on anticipatory bail. In the circumstances herein, the High Court ought not to have granted the anticipatory bail at the stage of cognizance of offence, especially when the veracity of the same had not been investigated into by the investigating agency. Further, the High Court should have considered the conduct of the respondents in failing to appear before the learned Magistrate despite the directions by Sessions Court to that effect. Such conduct of the respondents creates reasonable apprehension in the mind of Court in respect of the bona fides of respondents and indicates their non-cooperating in the process of law. The aforesaid circumstances being writ large from the facts on record, the High Court could have directed the investigating agency to investigate into the protest-cum-complaint filed by the complainant and also, the private respondents to seek for a regular bail before the competent Court. Since that has not been done in this case, we take exception to the order passed by the High Court.”

8. Having considered the arguments raised on both sides and the background of the case, the situation that emerges is that an alleged “honour killing” of two persons took place, though as regards the girl, Rachna, the police had registered an FIR under Sections 306, 376, 506, 452, 34 IPC (against deceased Rup Singh and two others). As regards Rup Singhs' death, it is made out to be a road side accident; however, according to the complainants' case, it was also a murder that was attempted to be shown as a road side accident.

Though obviously at this stage, no custodial interrogation of the petitioners would be required, a criminal complaint having been instituted before the trial Court and not an FIR with the police, however, in the entire set of circumstances aforesaid, I am not inclined to grant them the concession of anticipatory bail and as such, I see no reason to entertain this petition.

Consequently, it is dismissed.

However, nothing said hereinabove will be taken to be any observation of, or indication by, this Court as regards the merits of the allegations made against the petitioners and their co-accused, which would obviously be subject matter of evidence to be led before the learned trial Court.

(AMOL RATTAN SINGH)
JUDGE

March 06, 2017
nitin

Whether speaking/reasoned	Yes
Whether Reportable	No.