

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

CRM M-39462 of 2016

Date of decision : 10.12.2018

Paramjit Singh @ Ricky

....Petitioner

V/s

State of Punjab

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Navjot Singh, Advocate for the petitioner.

Ms. Ambika Sood, DAG Punjab.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Varun Baanth, Advocate for the complainant.

RAJAN GUPTA J.

An incident took place on 09.02.2016. Innova car bearing registration no. PB-07-R-4734 was found from the Kandi canal. From the said vehicle, dead body of Jagpreet Singh @ Jaggi was recovered. Statement of Pardeep Singh, uncle of deceased was recorded on 09.02.2016. He stated that it was a case of accident. Accordingly, police started proceedings under section 174 Cr.P.C. DDR No. 31 dated 10.02.2016 was registered on the basis of statement of Paramjit Singh @ Ricky. He stated that he alongwith Gurjinder Singh @ Lambar and deceased Jaspreet Singh @ Jaggi were going in Innova car from Datarpur to their respective villages. When they reached near Hanuman Mandir at village Karora Badala, an alto car suddenly came in the front. Due to this, driver of Innova car lost control and same fell in Kandi canal. Petitioner i.e. Paramjit Singh @ Ricky and Gurvinder Singh were stated to have come out of the car themselves while deceased Jagpreet Singh @ Jaggi was pulled out. Thereafter, ambulance was arranged and they were taken to Civil Hospital, Hazipur. Jagpreet

Singh @ Jaggi was declared dead by the doctors at Civil Hospital, Hazipur. On 13.02.2016, uncle of the deceased Pardeep Singh made a statement to the police alleging that his nephew had been murdered. Resultantly, FIR No. 9 dated 13.02.2016 was registered against Gurjinder Singh @ Lambar, Paramjit Singh @ Ricky, Amit Kumar @ Bread and Navjot Singh @ Rocky under sections 302/201/34 IPC, Petitioner co-accused Gurjinder Singh @ Lambar and Amit Kumar @ Bread were arrested on 14.02.2016. They suffered disclosure statements and admitted that Navjot Singh @ Rocky gave blows of iron strip on right side of head, feet and right hand of deceased. At that time, Paramjit Singh @ Ricky and Gurjinder Singh @ Lambar caught hold the legs of deceased and Amit Kumar @ Bread sat on his back. In this manner, murder of Jagpreet Singh @ Jaggi was committed. On the statement of Amit Kumar, iron strip used in the occurrence and Innova car bearing registration no. PB-07-R-4734 were recovered. Viscera report was obtained on 17.12.2016. As per Chemical Examiner report, no poison was detected but Ethyl Alcohol was present. After obtaining Chemical Examiner report, opinion of the Medical officer was obtained. As per the said opinion, cause of death in the case was compression of Brain due to head injury exaggerated by combined effect of multiple injuries and ethyl alcohol intoxication with asphyxia. This was sufficient to cause death in the ordinary course of nature. After completion of investigation, challan was presented in the court of Area Magistrate, Mukerian district Hoshiarpur. Navjot Singh @ Rocky who is alleged to have caused injuries approached this court seeking pre-arrest bail. Vide order dated 21.07.2016, coordinate Bench of this court was pleased to grant pre-arrest bail to Navjot Singh @ Rocky on the plea that prosecution had put forward two stories and there was contradiction therein. The order reads as under:-

“This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.9 dated 13.02.2016 registered under Sections 302, 201 and 34 IPC at Police Station Talwara, District Hoshiarpur. On 08.07.2016, following contention was made:

“Learned senior counsel has argued that the first version of the incident was given by one of the persons who was travelling with the deceased when the vehicle had fallen into the canal and reading of that statement shows that the FIR is completely contrived.”

Learned State counsel on instructions from ASI Harinder Singh has accepted this and also argued that Paramjit Singh, who had given that statement, is also co-accused.

Learned counsel for the petitioner has submitted that two independent witnesses i.e. Vikram Singh and Moti Ram, who had admittedly helped to retrieve the persons from canal have also given similar statements.

Learned State Counsel on instructions from ASI Harinder Singh has also accepted the said fact.

In this view of the matter, there is a seeming contradiction on the record and without commenting on the merits of the case, I cannot but grant the benefit of this contradiction to the petitioner.

Let him appear before the Investigating Officer on 28.07.2016 or on any other date on which his presence is required by the Investigating Officer. On his appearance, the Investigating Officer shall release him on bail to his satisfaction subject to the conditions as envisaged under Section 438 (2) Cr.P.C.

Petition stands disposed of.”

It is evident that accused Navjot Singh who is stated to have caused injuries with iron strip on the head and other parts of the body of the deceased, was never subjected to custodial interrogation in view of bail

order in his favour. The investigating agency, thus, presented a supplementary challan against him on 14.09.2016. Charges were framed thereafter and trial proceeded. During the course of trial, some of the witnesses have turned hostile. An application was moved by mother of the deceased Jagpreet Singh @ Jaggi seeking cancellation of bail. At the time of hearing, however, she sought to withdraw the same. This fact coupled with the fact that some witnesses have resiled, possibility that they are under some pressure cannot be ruled out. Admittedly, mother of the deceased is yet to depose before the court. Vide order dated March 07, 2018, this court had stayed the proceedings before the trial court as several issues arose for its consideration. The laxity of the police is evident from the fact that it started proceedings under section 174 Cr.P.C at the outset despite having noticed injuries on the person of deceased Jagpreet Singh @ Jaggi. Instead of conducting a thorough probe into the matter, it straightaway believed the statement of Paramjit Singh @ Ricky. On 13.02.2016 only after three days when uncle of the deceased stated that he suspected that his nephew had been murdered, instant FIR was lodged. Thereafter in autopsy report of the deceased it was reported as under:-

<i>Sr.</i>	<i>Injuries</i>	<i>Marked</i>	<i>Injury</i>
<i>No.</i>			<i>Numbe</i>
			<i>r</i>
1.	A DIFFUSED SWELLING 4CM X 3.5CM OVER SCAPL, RIGHT TEMPORAL REGION ON DISSECTION OF SKULL FOR INJURY, EXTRACRANIAL HAEMORRHAGE PRESENT ON RIGHT PARITO-TEMPORAL REGION.	Yes	2

- SUB DURAL HAEMORRHAGE
PRESENT ON RIGHT PARITO-
TEMPORAL REGION, ABOUT 150CC
OF FLUID AND CLOTTED BLOOD
PRESENT AROUND BASE OF
BRAIN.*
- A LINEAR FRACTURE OF INNER
TABLE FOUND EXTENDED FROM
RIGHT PARITO-TEMPORAL
REGION TO BASE OF SKULL AT
MIDDLE CRANIAL FOSSA,
INFILTRATION OF BLOOD
PRESENT*
- | | | | |
|----|---|------------|----------|
| 2. | <i>CONTUSED SWELLING OVER SOLE
OF LEFT FOOT, REDISH BLUE IN
COLOUR, MEASURING 13CM X
9CM
ON CUT SECTION, CLOTTED
BLOOD WITH INFILTRATION OF
BLOOD PRESENT</i> | <i>Yes</i> | <i>1</i> |
| 3. | <i>REDISH BLUE DISCOLOURATION
OF SOLAR ASPECT OF RIGHT
FOOT WITH MILD SWELLING
MEASURING 4X 5.5 CM, ON CUT
SECTION INFILTRATION OF
BLOOD PRESENT</i> | <i>Yes</i> | <i>3</i> |
| 4 | <i>DIFFUSE SWELLING OF LEFT
HAND ON ITS BACK WITH
SCALD(FLUID FILLED) OF SIZE
4X5CM ON PALMER ASPECT AND
BASE OF THUMB</i> | <i>Yes</i> | <i>4</i> |

In view of medical evidence and recoveries effected on the basis of disclosure statements, police proceeded to present challan against the accused. However, due to lackadaisical approach and initial gaffe,

accused Navjot Singh succeeded in getting pre-arrest bail in view of certain contradiction in the story of the investigating agency. The entire sequence of evidence shows that several forensic aspects which needed thorough examination may have escaped the notice of the investigating agency. Besides the investigating agency was not able to insulate the witnesses from pressure in order to enable them to depose independently. There are number of gaping holes in the entire investigation.

Under the circumstances, this court feels that further investigation is necessary in the instant case preferably by an independent agency. Accordingly, this court deems it fit to invoke its inherent powers and hands over the further investigation of the case to Central Bureau of Investigation who would complete the same and submit its report within three months. It shall, however, file a status report within one month.

In view of facts enumerated above, plea for bail of Paramjit Singh @ Ricky is rejected at this stage with liberty to file afresh. State shall hand-over the relevant record to the Central Bureau of Investigation within a week from today. Investigating agency shall also be at liberty to seek photocopy of the other records available with the trial court by moving an appropriate application.

December 10, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No