

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

CRM-M-40857-2017

Date of decision:-8.1.2018

Balwinder Singh @ Binder

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ashok Giri, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Sr.D.A.G., Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Balwinder Singh @ Binder – an accused in FIR No.80 dated 18.12.2016,
under Section 304 IPC, registered with Police Station Bilga, District
Jalandhar.

Briefly stated, the facts of the case as per prosecution story
are that criminal machinery in this case was set into motion by Mrs.Rama

wife of Rajinder of Balmiki community, resident of Link road 16, near State Bank of India, Jalandhar by making a statement to the police, in which she stated that her younger brother Munish Kumar son of Sham Lal lived with her mother at Pati Mansur Bilga; that on 17.12.2016, she had received a call from her sister Sunaina that their brother Munish Kumar had not returned home after 16.12.2016, however, motorcycle of Munish Kumar was found from Patti Mansur; that on 18.12.2016 the complainant came to know that Munish Kumar had died, therefore the complainant along with her husband and other relatives went to Bilga and found that dead body of Munish Kumar was lying in the house of Balwinder Singh @ Binder, resident of Pati Bhalaai Bilga; that the complainant had a doubt that Balwinder Singh @ Binder had murdered Munish Kumar by giving him some poisonous substance since Balwinder Singh @ Binder had parked his brother's motorcycle just ahead of his house and he did not give any information to the neighbours. Accused was arrested. After completion of investigation and other formalities, challan against the accused has been filed in the Court. The accused had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, Jalandhar vide order dated 16.8.2017, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

Learned counsel for the petitioner has stated that as per the report of Chemical Examiner, copy of which has been filed by the State counsel, Morphine was detected in viscera of the deceased; that Morphine

is not a poison and as a matter of fact, the deceased had died as a result of overdose of the drugs; that the petitioner is behind bars for more than one year, therefore, concession of regular bail was granted to the petitioner.

Whereas, this request is being opposed by learned State counsel contending that the allegations against the petitioner are very serious; that trial is going on, which is likely to be concluded in the near future and in case regular bail is granted to the petitioner, there are fair chances of his absconding and trying to tamper with the prosecution evidence, therefore, the petition be dismissed.

I have heard learned counsel for the parties besides going through the record.

In the instant case, the petitioner is specifically named in the FIR and as alleged by the complainant in the FIR, the petitioner had committed murder of Munish Kumar by administering him some poison. Though from the report of Forensic Science Laboratory, it comes out that Morphine was detected in viscera of the deceased but then it is just one of the factors, which is to be taken into consideration. This Court is not to conduct a mini trial so as to find whether the petitioner had committed the murder of the deceased. Admittedly, the trial is going on and guilt of the accused shall be determined during such trial. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merit in the petition, the same stands dismissed.

However, while parting the discussion, the trial Court is directed to make earnest endeavour for expeditious disposal of the trial by granting short dates.

8.1.2018

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**