

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

CRM-M-45042-2018 (O&M)

Date of Decision:- 16.10.2018

Sukhwinder Singh @ Kala and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ramesh Hooda, Advocate, for the petitioners.

Mr. A.S.Sandhu, Addl. A.G. Punjab.

GURVINDER SINGH GILL, J. (Oral)

Petitioners Sukhwinder Singh @ Kala and Mandeep Singh @ Manni have filed this petition seeking grant of regular bail in respect of a case registered against them vide FIR No.191 dated 1.10.2017, Police Station Bhawanigarh, Sangrur, which was initially registered under Sections 279, 304-A IPC and in which offences under Sections 302, 201, 34/120-B IPC were added lateron.

Ms. Mannat Anand, Advocate has appeared on behalf of the complainant and filed her power of attorney. The same is taken on record.

The FIR was lodged at the instance of Sher Singh wherein it has been alleged that on the day of occurrence when he as well as his son Jodhbir Singh were returning home on their motorcycles and while his son

was proceeding ahead and he was following him, one unknown vehicle came from behind and hit against the motorcycle of his son Jodhbir Singh as a result of which he fell down and sustained injuries and ultimately expired. Subsequently, on 16.3.2018 i.e. after about 5 months, the complainant moved an application to the police alleging therein that in fact his son had been killed by Sukhwinder Singh, Mandeep Singh and Jaswant Singh and his body and the motorcycle had been thrown on the road. Thereafter, on 1.5.2018, the complainant made a supplementary statement to a similar effect naming both the petitioners and Jaswant Singh who had killed his son and had thrown his body as well as his motorcycle on the road. Pursuant to the aforesaid supplementary statement, offences under Sections 302, 201 read with Section 34 IPC were added and the petitioners were arrested on 4.5.2018.

Learned counsel for the petitiones has submitted that the offences under Sections 302, 201 read with Section 34 IPC have been added as an after-thought and simply in order to harass and pressurize the petitioners and that perusal of the FIR itself shows that it is a case of death due to vehicular accident and is not a murder as is now being alleged by the complainant.

On the other hand learned State counsel, assisted by learned counsel for the complainant has submitted that in fact immediately after the occurrence, the complainant was in a state of shock and the FIR was got registered by relatives of the complainant and his thumb impression was obtained and that it is in fact a case of murder.

Having considered the rival submissions addressed before this Court and also bearing in mind the allegations which were levelled by the complainant in the FIR and also that it was much later after registration of the FIR that the complainant has come up with the version of murder of his son and that the petitioners have been behind bars since the last about 5 months and 11 days and challan has already been presented and that the trial is likely to take some time for its conclusion, in my opinion, no useful purpose would be served by further detaining the petitioners behind bars. The petition, as such, is accepted. Petitioners Sukhwinder Singh @ Kala and Mandeep Singh @ Manni are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, Sangrur.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

October 16, 2018

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No