

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-7427-2019 (O&M)
Date of Decision:-22.4.2019

Virsa Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Arshdeep Kaur, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.0081 dated 1.11.2018 at Police Station Qila Lal Singh, Tehsil Batala, District Gurdaspur, Punjab under Sections 341, 323, 506, 304 and 34 of Indian Penal Code.

The FIR was lodged on the basis of statement of Baljit Kaur (later expired), wherein it has been alleged that on 22.10.2018, when her husband was preparing to go to the fields from his house on a tractor, then in the meantime Virsa Singh @ Pappu came on a motorcycle and stopped his motorcycle in front of the tractor and started hurling abuses at complainant's husband. It is alleged that the accused called his wife asking her to bring a 'datar' while raising a 'lalkara' exhorting that he shall kill Tarsem Singh. It is alleged that thereafter Virsa Singh started beating complainant's husband

and upon hue and cry being raised, the complainant came out of the house and while she was trying to rescue her husband, Virsa Singh @ Pappu pushed her as a result of which she fell down on the pucca street and became unconscious. It is alleged that the complainant was later taken to Escort Hospital, Amritsar. It is further alleged that the motive for the occurrence is that there was a dispute regarding a common wall between the house of the complainant and house of Virsa Singh.

The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that infact the complainant died an unnatural death on account of high blood pressure. It has further been submitted that the allegations as levelled in the FIR pertaining to inflicting injuries to complainant's husband are not substantiated in any manner as there is no evidence to show that he had ever sustained any injury.

Opposing the petition, the learned State counsel has submitted that since there are specific allegations in the FIR to the effect that the petitioner had pushed the complainant/deceased resulting in her falling down on the pucca street, no case for grant of anticipatory bail is made out. The learned State counsel has referred to the opinion pertaining to cause of death in the post-mortem report dated 4.11.2018, which reads as follows:-

“Opinion

Cause of death

Cause of death in this case in our opinion is failure of functioning of brain as a result of intra cerebral and subarchonised haemorrhage as result of rupture of aneurysm which is antemortem in nature and sufficient to cause death in ordinary course of nature.”

I have considered the aforesaid submissions. I find that subsequent to the aforesaid post-mortem report there is another opinion furnished by a Board of Doctors comprising Dr. Lovekesh Nayyar and Dr. Arvind Mahajan on 11.1.2019, wherein it has been concluded as follows:-

“Since there was no external injury present at the time of post-mortem except surgical sutured wound, the possibility of any trauma due to fall is ruled out.”

In view of the aforesaid opinion of the Board of Doctors, it will certainly be debatable as to whether it is a case of homicidal death or not. Further even the allegations regarding causing injuries to complainant's husband are not borne out from any medical evidence. Consequently, in my opinion, it is a fit case for grant of anticipatory bail. The present petition, as such, is accepted and in the event of arrest, the petitioner Virsa Singh be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The present petition stands accepted accordingly.

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

22.4.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No