IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-28065-2019
Date of Decision: 27.09.2019

Akshey Singh @ Golu

.....Petitioner

Vs.

State of Punjab

.....Respondent

CRM-M-14383-2019 (O&M)

Satish Kumar and another

....Petitioners

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Arvind Kashyap, Advocate,
for the petitioner (in CRM-M-28065-2019).

Mr. Vaibhav Narang, Advocate,
for the petitioners (in CRM-M-14383-2019).

Ms. Ruchika Sabharwal, A.A.G., Punjab.

Mr. Vikas Chatrath, Advocate,
for respondent no. 2.

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AMOL RATTAN SINGH, J. (ORAL)

CRM-M-28065-2019

Pursuant to the order dated 11.07.2019, an affidavit of the Deputy Superintendent of Police, Circle Amloh, District Fatehgarh Sahib, has been filed in Court today, annexing therewith the opinion of the doctors of the Government

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Medical College and Hospital, Sector 32, Chandigarh, dated 02.06.2018, to the effect that the patient (since deceased), was fit for making a statement.

Thereafter, the statement of the patient is shown to be recorded on the same date by ASI Kuldip Singh, after which another statement is shown to be recorded on 08.07.2018, completely in contradiction to the previous statement, but with no opinion take of the doctor at that stage as to whether the patient was in a fit condition to make the statement or not.

Even though this is a petition seeking 'regular bail', the conduct of the police needs to be commented upon by this Court, to the effect that at the time of recording both the statements, neither was any doctor asked to be present, and with the statements having been recorded more than one month apart, it is not understood as to why an application to the Duty Magistrate concerned could not be made, to ensure that the statement of (the then injured) person, was recorded in his/her presence.

Be that as it may, without making any comment on the actual merits of the case for or against the petitioner, he having been in custody since 03.10.2018, with only 03 prosecution witnesses out of 17 having been examined, this petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial Court.

However, the Senior Superintendent of Police, Fatehgarh Sahib, is directed to file an affidavit giving therein as to why the so called investigating officer did not even request any doctor to be present at the time when the statement of the (then injured, later deceased, Subhash), was recorded, or why an application for recording his statement, in terms of Section 164 of the Cr.P.C., could not be moved.

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For that purpose, the case file be put up on 30.10.2019.

CRM-M-14383-2019

For the reasons given hereinabove in the connected matter, and the fact that the petitioners in this petition are also stated to have been in custody since December 2018, this petition is also allowed. The petitioners shall be admitted to bail upon their furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial Court.

September 27, 2019 **(AMOL RATTAN SINGH)**
nitin/dinesh **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No.

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