

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

CRM-M-28519-2019 (O&M)
Date of decision: 23.7.2019

Bagicha Singh and another

... Petitioner(s)

VERSUS

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Nakul Sharma, Advocate.
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Naresh Kumar Manchanda, Advocate,
for the complainant.

RAJ SHEKHAR ATTRI, J. (Oral)

CRM-22021-2019

Allowed as prayed for and documents Annexures P-6 to P-11
are taken on record subject to all just exceptions.

CRM-M-28519-2019

The present petition has been filed under Section 438 Code of
Criminal Procedure for grant of anticipatory bail to the petitioner in case
FIR No.33 dated 1.6.2019 registered for the offences punishable under
Sections 328, 304-B, 34 of Indian Penal Code, at Police Station Amir Khas,
District Fazilka.

Heard.

Deceased Veera Rani had died by consuming poison. Before
her death, she obtained divorce under Section 13-B of Hindu Marriage Act

(Annexure P-2).

Petitioner Bagicha Singh is the elder brother of her husband whereas the second petitioner Swarna Rani is the wife of said Bagicha Singh.

The dying declaration of deceased Veera Rani was recorded by learned Judicial Magistrate, Ferozepur on 31.5.2019 wherein she has stated as under : -

“....On 29.05.2019 at 9:00 PM, my brother-in-law Bagicha Singh held my legs with Dupatta, Nihali Bai tied my hand with Dupatta, Swarna Rani took my neck in her hand. She also open my mouth and my husband put water mixed with something in my mouth. Thereafter I became unconscious and people from neighbourhood called my parents. My mother, brother, son of my uncle came to my in-law's house at around 10:30 PM. They got me admitted at Jalalabad hospital namely Sandeep Chuchar. Earlier my in-law's transferred land in my name and my husband got that land transferred in his name on the pretext of Court case. He has also taken gold from me. He told me that our daughter belong to him as per order of Court in divorce case. He got divorce from me in my back....”

A bare perusal of the above said dying declaration transpires that both the petitioners took active role in her death. It is categorically stated that her brother-in-law held her legs with *Dupatta*, Nihali Bai tied her hands with another *Dupatta* and Swarna Rani took her neck in her hands and petitioner Kuldeep Singh put water mixed with substance in her mouth and she became unconscious and ultimately, Veera Rani died in the

hospital.

The remedy of anticipatory bail is extraordinary and should be used in exceptional cases. The Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre v. State of Maharashtra and others** 2011 AIR (SC) 312 pleased to issue the following parameters:-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

To the mind of this Court, no case is made out for grant of anticipatory bail.

Accordingly, the present petition stands dismissed.

July 23, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No