

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

CRM-M-18006-2020

Date of decision:-9.7.2020

Gurmukh Singh

...Petitioner

Versus

The State of Punjab

...Respondent

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

Present: Mr.Navraj Singh, Advocate
for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Gurmukh Singh, an accused in FIR No.141 dated 1.10.2019 for the offence under Section 304 IPC, registered with Police Station Mahilpur, District Hoshiarpur.

Briefly stated, facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by complainant – Suman, who in her statement got recorded with the police of Police Station Mahilpur stated that her husband Amrit Pal (deceased)

was running a tea stall besides doing business of property dealer; on 10.8.2018 at about 11:30 a.m., petitioner/accused Gurmukh Singh took her husband Amrit Pal along with him saying that his brother Baljit Singh had come and signatures of the deceased were required to be obtained on a statement; at about 1:30 p.m., Gurmukh Singh came back in a private car; on the rear seat of the said car Amrit Pal was lying; Gurmukh Singh informed the complainant that condition of Amrit Pal was serious and he was to be taken to hospital for treatment, therefore, she should accompany them; the complainant sat in that car; she found that froth was coming from the mouth of her husband and his body was cold; Amrit Pal was taken to Civil Hospital, Garhshankar, where the doctor declared him dead; the complainant went in state of shock due to sudden death of her husband, as such could not make statement to the police promptly, therefore inquest proceedings under Section 174 Cr.P.C. were carried out by the police on the statement of Kapil Dev an elder brother of the deceased. In her statement made to the police, which formed basis for registration of the FIR, she had stated that she was having suspicion that her husband had died because some poisonous substance had been administered to him by Gurmukh Singh and Baljeet Singh. Viscera of deceased had been sent to FSL and as per report received therefrom, he had died as a result of intake of some poisonous substance.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Sessions Judge, Hoshiarpur vide order dated

20.12.2019. As such, the petitioner has approached this Court asking for similar relief.

Notice of motion.

Mr.Dhruv Dayal, Sr.DAG, Punjab, accepts notice on behalf of State and opposed the petition.

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

In the FIR, the petitioner along with his brother Baljeet Singh are specifically named as a culprits, who had caused death of deceased Amrit Pal by administering poison to him. From the report of FSL/Chemical Examiner, it transpired that death of Amrit Pal had taken place due to organo phosphorus poisoning. The allegations against the petitioner are grave and serious.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

As regards the contention raised by learned counsel for the petitioner that there is delay in lodging of the FIR; that brother of deceased, Kapil Dev had termed it as a case of death on account of heart failure, therefore, inquest proceedings under Section 174 Cr.P.C. had taken place and furthermore the poison allegedly administered given pungent smell, which cannot be forcibly administered to a person, these things may have some relevance

during the trial to determine guilt of the accused but not at this stage when entitlement of the petitioner for grant of pre-arrest bail is to be seen.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation so as to find out under what circumstances the planning to kill Amrit Pal was done and how it was executed. It is also to be found out how and from where the poison was procured and administered to the deceased. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

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

9.7.2020
Brij/sumit.k

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No