

214

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

1. CRM-M No.43121 of 2019
Date of Decision: 13.02.2020

Kuldeep SinghPetitioner
Vs
State of PunjabRespondent

2. CRM-M No.43728 of 2019

Harinder Singh @ TonyPetitioner
Vs
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. D.S. Malwai, Advocate
for the petitioner in CRM-M No.43121 of 2019.

Mr. M.K. Singla, Advocate
for the petitioner in CRM-M No.43728 of 2019.

Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab.

Mr. Aminder Singh, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

Vide this common order, CRM-M No.43121 of 2019 and CRM-M No.43728 of 2019 are being decided. Since both the petitions arise out of the same FIR, therefore, common facts are being noticed.

Petitioners seek grant of regular bail under Section 439

Cr.P.C in case bearing FIR No.10 dated 27.01.2019, registered under Sections 302 & 34 IPC (later on Section 34 IPC deleted and Sections 120-B & 109 IPC were added) at Police Station Cheema, District Sangrur.

The FIR was registered at the instance of Gursev Singh son of Balbir Singh with the allegations that on 26.01.2019, an information was received at his house that his brother Naib Singh has met with an accident. The complainant along with 4-5 persons went to the spot and saw his brother lying on the back of motorcycle with this head downwards. The complainant found injury marks on the body of Naib Singh. They brought the dead body to the Hospital. The FIR was registered against the unknown persons.

After about five months, extra-judicial confession was allegedly recorded before one Amrik Singh, who happens to be brother-in-law of the deceased. The allegations are that the petitioners and one Hardeep Singh had hatched a conspiracy to eliminate Naib Singh and a contract was given to one Lachman Singh, who is in custody.

During course of investigation, Hardeep Singh was found to be innocent on 20.07.2019. An application under Section 319 Cr.P.C. is statedly pending for summoning of Hardeep Singh. After recording extra judicial confession before

Amrik Singh, the complainant party on the basis of CCTV footage implicated the petitioner that on the basis of conspiracy hatched by them, Naib Singh was eliminated by Lachman Singh.

Learned counsel for the petitioner(s) submitted that the CCTV footage showing presence of the petitioners along with deceased in marriage ceremony would be debatable as to whether the deceased was intentionally kept at the site so as to facilitate the contract killer to murder him subsequently. The extra judicial confession would also be debatable as the same is a weak type of evidence. Challan has already been presented and no prosecution witness has been examined so far. Petitioners are in custody since 01.06.2019.

According to learned counsel for the petitioner(s), complicity of the petitioners viz-a-viz. occurrence in question would remain debatable as there is no direct evidence available with the prosecution.

Learned State counsel on instructions from ASI Gurmail Singh submitted that the application under Section 319 Cr.P.C. has been filed after examination of Amrik Singh. It is not in dispute that after filing of the challan, no prosecution witness has been examined so far.

Learned counsel for the complainant has also opposed the prayer for grant of regular bail to the petitioners with reference to the CCTV footage of the house of the co-accused, where marriage ceremony was being performed. The alleged incriminating material against the petitioners in the form of CCTV footage and phone call details would be debatable and would be answered by the trial Court at the relevant stage in accordance with law.

At this stage, without adverting to the merits of the case, I am of the view that petitioners, who are in custody since 01.06.2019 can be enlarged on bail.

In view of above, both the petitions are allowed. Petitioners are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 13, 2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No