

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

**CRM-M-46593-2019 (O&M).
Date of Decision: October 09, 2020**

HARPREET SINGH AND ANOTHER

..... Petitioner(s)

Versus

STATE OF PUNJAB

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gopal Singh Nahel, Advocate
for the petitioners.

Mr. A.A. Pathak, Addl. AG, Punjab.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

CRM-25180-2020

For the reasons mentioned in the application, same is allowed as prayed for. Documents Annexure P-5 (Colly) are taken on record, subject to just exceptions.

Application is disposed of.

CRM-M-46593-2019

The petitioners pray for grant of bail pending trial in FIR No.02, dated 05.01.2019 under Sections 302, 201, 120-B, 34 IPC, registered at Police Station Sherpur, District Sangrur.

Learned counsel for the petitioners vehemently argues that the petitioner Harpreet Singh, aged about 21 years and petitioner Jasmail Singh @ Kala, aged about 27 years, have been falsely implicated in this FIR. The above said FIR was registered on the statement of Leela Singh, father of the complainant, after a delay of 3 days, which is unexplained. Kuldeep Singh, the son of the complainant, went missing on 02.01.2019. His dead body was recovered on 03.01.2019, near the drain of village Tibba, Police Station Sherpur. The dead body was identified by complainant's other son Mandeep Singh. As per the averments in the FIR, the complainant's son Mandeep Singh informed the complainant that he had seen the present petitioners along with one Harbans Singh, taking Kuldeep Singh (since deceased) on the evening of 02.01.2019, in a Maruti car towards village Narike and on 05.01.2019 Mandeep Singh overheard talks between Mandeep Kaur (wife of deceased) and Harbans Singh that nobody has come to know about the death of Kuldeep Singh by strangulation. It is averred that wife of the deceased namely Mandeep Kaur had illicit relations with Harbans Singh and it is due to this reason that Kuldeep Singh was done to death by Harbans Singh in collusion with the present petitioners.

Learned counsel for the petitioners argues that the FIR has admittedly been registered on the basis of information received by the complainant from his other son Mandeep Singh. Even in his testimony before the learned trial Court, the complainant while appearing as PW-2, has specifically stated that his knowledge of the incident, is as per the information received by him from Mandeep Singh. Learned counsel for the petitioners refers to the statement of PW2, attached as Annexure P-2.

However, Mandeep Singh while deposing as PW3, before the learned trial Court, has not supported the prosecution case. His testimony is attached as Annexure P-3. In this view of the matter, it is argued that the entire prosecution case falls to the ground like a house of cards. The petitioners have been in custody since 05.01.2019. All the material witnesses stand examined. Only one witness i.e. the Nodal Officer, Bharti Airtel Ltd. remains to be examined. The trial in this case is not making further headway. Learned counsel for the petitioners refers to the interim orders of the learned trial Court, attached as Annexure P-5, to point out that the matter could not be taken due to the outbreak of pandemic, COVID-19. Learned counsel for the petitioners further argues that even if it is accepted that wife of the deceased namely Mandeep Kaur had illicit relations with Harbans Singh, there is nothing on record to connect the present petitioners with the commission of the offence in question. The petitioners, it is submitted, are not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State is unable to deny that the FIR was registered on the statement of Leela Singh, on the basis of information received by him from Mandeep Singh. The complainant Leela Singh (PW2), in his statement, specifically and categorically stated that the entire information given by him is on the basis of what was revealed to him by Mandeep Singh. It is further a matter of record that Mandeep Singh has not supported the prosecution version. Learned counsel for the State is unable to point out any evidence on record at this stage, indicating involvement of the

present petitioners in the offence. Learned counsel for the State on instructions from Inspector Yadwinder Singh verifies that the petitioners are not involved in any other criminal case. Material witnesses in this case stand examined.

There is no allegation that the petitioners are likely to abscond or influence witnesses. Due to the situation created by outbreak of the pandemic COVID-19, trial in this case is not likely to be concluded in the near future. No useful purpose would be served by keeping the petitioners incarcerated any longer.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. The petitioners be released on bail pending trial subject to their furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

09.10.2020

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No