

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201)

CRM-M-487 of 2021

Date of Decision: 06.04.2021

Kulwinder Singh @ Kinda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Parminder Singh Sekhon, Advocate, for the petitioner.
Mr. S.S. Deol, DAG, Punjab.

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

On 07.01.2021, the following order had been passed:-

“Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.P., upon FIR no.60, dated 01.07.2020, having been registered at Police Station Sherpur, District Sangrur, alleging therein the commission of offences punishable under Section 306 of the IPC read with Section 34 thereof.

Mr. Sekhon, learned counsel for the petitioner, first refers to an order passed by this court on August 17, 2020, in the case of a co-accused, Suraj Bhan, (in CRM-M-20061 of 2020), which reads as follows:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

A status report having been filed by the Deputy Superintendent of Police, Sub Divison Dhuri, District Sangrur, and an affidavit having also been filed by the complainant, it is stated in the reply of the DSP that the petitioner and his coaccused had threatened the deceased, leading to the deceased committing suicide and that the petitioner has also other criminal antecedents, with him however having been acquitted in one case, with in another case an “untraced” report having been sent and with the third case (registered on June 12, 2020) still being under

investigation, alleging therein the commission of offences punishable under Sections 341, 323, 506 and 34 of the IPC.

It has also been stated in the reply of the DSP that the deceased recorded a video on his mobile phone on the basis of which one Sukhwinder Singh was nominated as an accused; however, the laboratory has not verified the authenticity of the video in view of the Covid-19 situation.

Learned counsel for the complainant however submits that he has already forwarded to the Reader of this court the video recording, which may be perused.

Having seen the video recording (which is very clear), it is seen that the person in the video recording (is stated to be the deceased Afzal), has stated that the petitioner (Suraj Bhan) and others had got a false case registered against him (deceased) and others, and though he himself was willing to suffer, he would not let his family and friends suffer.

Learned counsel for the petitioner however submits that though no criminal case was ever registered at the instance of the petitioner against the deceased, which fact is not denied by learned counsel for the complainant, he (the latter) however submits that a criminal case had been registered against the companions of the deceased and therefore, the deceased, while he was taken to hospital, made a dying declaration to his brother that he was committing suicide because the petitioner and others had threatened that they would involve the deceased in other cases also.

Hence, on account of those threats he committed suicide.

Having considered matter, at this stage at least it is not seen from the video recording produced before this court that the deceased has said that the petitioner and others threatened him due to which he was committing suicide, though of course he has stated (in *Punjabi*) that “a false case has been registered against us.”

That being so, the petitioner is directed to join investigation and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 18.09.2020.

It is directed that, further, another status report be filed by a gazetted officer, as regards investigation carried out after the petitioner joins investigation.”

Learned counsel submits that the petitioner is not differently placed to Suraj Bhan in whose case in fact eventually the interim order was made absolute alongwith the interim order passed in favour of another coaccused, Sukhwinder Singh @ Golu, with the investigating agency itself having stated that their custodial interrogation was not required.

Notice of motion.

Mr. Saurav Khurana, learned DAG, Punjab, accepts notice at the asking of the court and submits that, as per his instruction, there are two other criminal cases registered against the petitioner.

However, he would take instructions as to how, in the present case, the petitioners' case is different in the context of present FIR, from that of the aforesaid two persons.

In the meanwhile, the petitioner is directed to join investigation within one week and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438 (2) of the Cr.P.C. If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 23.03.2021.”

Today, learned State counsel, on instructions, submits that the petitioner in this petition has joined investigation and presently at least his custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the custodial interrogation of the petitioner, this petition has in fact been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 10 days notice before arrest, duly shown to be served upon him.

06.04.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No