

In virtual Court

CRM-M-6196-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6196-2021 (O&M)
Date of decision: 29.04.2021

Paramjit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

This is 2nd petition for grant of regular bail in FIR No.52 dated 04.03.2019 under Sections 302, 34 IPC, registered at Police Station Ajnala, District Amritsar; earlier one was dismissed vide order dated 26.10.2020 passed in CRM-M-23483-2020.

Learned counsel for the petitioner submits that new ground for filing this second petition is that some medical opinion has come and the petitioner is in long custody since 24.09.2019 and now challan has also been presented. It is further submitted that the FIR was registered on the statement of father-in-law of the petitioner, namely Swaran Singh, with the allegations that

he has 08 daughters and 02 sons. His daughter namely Rajvir Kaur age about 30/32 years was married to petitioner Paramjit Singh @ Pamma. It is further stated that on 03.03.2019, marriage of his another daughter namely Manpreet Kaur was fixed and on 02.03.2019, his son-in-law Gulzar Singh had gone to bring his Rajvir Kaur and her husband-petitioner Paramjit Singh @ Pamma to Ajnala. Paramjit Singh @ Pamma told Gulzar Singh to take his wife and children and he will come next day, on the day of wedding. Thereafter, Gulzar Singh brought Rajvir Kaur and her children to her house in Village Avan Vasau. On 03.03.2019, when marriage of his daughter Manpreet Kaur was to take place, all the family members of Paramjit Singh @ Pamma came to the wedding but Paramjit Singh @ Pamma and his brother Buta Singh did not come. At 4 o'clock, in the evening, Paramjit Singh @ Pamma came to his house and was talking to Rajvir Kaur in a drunken state and started arguing with her and thereafter, went back. At 7 o'clock, when Doli of his daughter Manpreet Kaur was to depart, he dropped Rajvir Kaur and her two children to her in-laws house in Ajnala and came back. On the next day i.e. 04.03.2019, he got a call that Rajvir Kaur has been killed. Upon this, he along with Ajit Singh, Sarpanch and some other persons went to in-laws' house of Rajvir Kaur, where he saw that she was lying dead on the bed and there were ligature mark around her neck. It is further stated that his son-in-law/petitioner Paramjit Singh @ Pamma and his younger brother Buta Singh have killed his daughter Rajvir Kaur by strangulating her.

Learned counsel for the petitioner further submits that thereafter,

the police recorded statement of one Satnam Singh, Member Panchayat, Avan Vasau (village of complainant Swaran Singh) under Section 161 Cr.P.C. to the effect that on 03.03.2019, he had gone to village of the petitioner due to some work and met two young persons, who disclosed their names as Paramjit Singh @ Pamma and Buta Singh. They disclosed that they are habitual of drinking liquor and when their friends visit their house, wife of Paramjit Singh @ Pamma Rajvir Kaur did not show any respect and they had a domestic dispute. It is further stated that on 03.03.2019, he have strangulated Rajvir Kaur with a rope and thus, has committed mistake and he should be presented before the police. Similar disclosure was made by Buta Singh in his presence. It is further submitted that the police also recorded statement of Chinda Singh, another Member Panchayat of village Avan Vasau under Section 161 Cr.P.C., in which he has stated that he visited village of the petitioner on 03.03.2019 and when he came near house of Paramjit Singh @ Pamma and Buta Singh, he heard noises coming from their house and when he went there, he saw that Rajvir Kaur was unconsciously lying on the bed. When he asked Paramjit Singh @ Pamma and his brother Buta Singh, they stated that it is their personal matter, you should go away. Later on, he came to know that they have strangulated Rajvir Kaur with a rope. It is further submitted that both the statements were made after about one and half month on 21.04.2019 and thereafter, the petitioner was arrested.

Learned counsel, at the first instance, has argued that both the statements are afterthought, as a perusal of statement of Chinda Singh would show that he has stated that when he had gone inside the house, he saw that

Rajvir Kaur was lying unconsciously and he being Member Panchayat of village of the complainant, noticing any abnormal thing, should have immediately informed complainant Swaran Singh about the same. Learned counsel has further referred to photographs (Annexure P-10), which were clicked by one Manpreet Singh, who had gone to house of the petitioner and had seen Rajvir Kaur, who hanged herself with a rope to a garder of the roof, to show that the neck of deceased had turned on left side. It is further submitted that even the post-mortem report regarding bodily injuries, at Remark No.1, reflects that head titled towards left side and a horizontal ligature mark 25cm x 1.5cm was there above thyroid cartilage on the neck. It is also submitted that if this witness Chinda Singh has seen the deceased lying on the bed, he would have immediately noticed the aforesaid injuries on neck of the deceased and in the absence of same, presence of this witness becomes highly doubtful.

Learned counsel has next argued that a bare perusal of the FIR would show that there is not even a single allegation that after marriage of the petitioner, deceased Rajvir Singh, which according to counsel for the petitioner took place about 7/8 years ago (and two children were born, out of this wedlock), the petitioner has ever maltreated his wife Rajvir Kaur or has raised any demand of dowry. It is further argued that contents of the FIR suggests that the marriage of Manpreet Kaur, sister of deceased Rajvir Kaur was fixed on 03.03.2019 itself, the petitioner and his brother Buta Singh had not gone to attend the marriage, though his family members had gone and in the evening, when the petitioner visited the house of complainant, he had a verbal spat with

Rajvir Kaur and he returned back and later on, Rajvir Kaur also came there, therefore, there is every possibility that due to this reason, she committed suicide on the same day.

It is further argued that mother of the petitioner has given a complaint to the Inspector General of Police, Border Range, Amritsar along with affidavits of co-villagers, who have stated that when they visited house of the petitioner, the petitioner and his brother Buta Singh were not present there and one Manpreet Singh has given an affidavit that he had clicked photographs of dead body of Rajvir Kaur, which was hanging with a rope tied to her neck on one side and with a garder of the roof. Learned counsel has also relied upon statements of certain other witnesses, who are residents of the village, wherein, they have stated that Rajvir Kaur has committed suicide. It is further submitted that veracity of all these affidavits has not been verified by the Investigating Officer and challan has been presented under Section 302 IPC against the petitioner, whereas the case would be falling under Section 306 IPC, as the deceased has committed suicide.

Learned State counsel has submitted that in the statements of aforesaid Satnam Singh and Chinda Singh recorded under Section 161 Cr.P.C., the petitioner and his brother Buta Singh had made a confession before Satnam Singh that they have committed the offence and Chinda Singh had himself seen the dead body of Rajvir Kaur lying on the bed, however, no explanation of delay is given in the statements of these two witnesses, which were recorded after a long lapse of time on 21.04.2019. Learned State counsel, on the basis of

affidavit of the Investigating Officer, has further submitted that cause of death is Asphyxia due to hanging, as there was ligature mark around the neck, as per post-mortem report and the petitioner was arrested after the evidence has come against him on record, when he made extraordinary judicial confession before one of the witness and co-accused Buta Singh is absconding and has never been arrested. It is also submitted that challan against the petitioner has been presented on 23.12.2019, however, till date, no prosecution witness has been examined. It is further submitted that the opinion regarding cause of death was received on 14.10.2020, which reads as under: -

“After going through PMR findings, Chemical Examiner Report, HPE Report and police inquest papers the Board is of the opinion that all the injuries are Antemortem in nature. The cause of death is Asphyxia as a result of constriction of neck which is sufficient to cause death in an ordinary course of nature.”

Learned State counsel further submits that later on, opinion was also sought from the Board of Doctors, where Asphyxia and constriction of neck in this case is suicidal or homicidal, but no opinion was given by the Medical Board by making a remark that post-mortem and circumstantial evidence can be co-related to make a decision.

In reply, learned counsel for the petitioner has submitted that in the absence of any specific opinion of the doctor, whether the death is suicidal or homicidal, which is to be decided during the course of trial, the petitioner may be released on bail.

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After hearing learned counsel for the parties, without commenting anything on merits of the case, considering the aforesaid facts submissions made by them, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

It is made clear that the observations made in this order are only for the purpose of deciding this bail application and will have no bearing on merits of the case.

**[ARVIND SINGH SANGWAN]
JUDGE**

29.04.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No