

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

CRM-M-16070-2021(O&M)

Date of decision:-27.4.2021

Davinder Singh Gill and another

...Petitioners

Versus

State of Punjab

...Respondent

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

Present: Mr.P.S. Jammu, Advocate
for the petitioners.

Mr.J.S. Ghuman, DAG, Punjab.

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 petitioners Davinder Singh Gill, aged about 29 years and Sanjay Talwar, aged about 31 years, both of them being accused in FIR No.39 dated 30.3.2021, under Section 306 IPC, registered with Police Station City, Moga.

Briefly stated, the facts of the case as per the prosecution story are that FIR in question was registered on the basis of statement made by complainant Aswinder Kaur wife of Jagdeep Singh, resident of Landheke, District Moga, aged about 40 years in which she stated that her husband Jagdeep Singh had opened a shop under the name and style of Bedi Internet Service at Main Bazaar Road near Dushhera Ground; that after completing her household work, she also used to go to the shop to

help her husband; that Sanjay Talwar son of Kewal Krishan, resident of Patwarkhana Road, Old Moga and Davinder Singh Gill (present petitioners) had opened an office in the name of Samar Immigration in front of their shop and Sukhwant Singh alias Sukha, resident of Kot Ise Khan, presently at Moga had been visiting them quite often; about six months earlier, Sanjay Talwar told the complainant and her husband that ILETS certificate of his wife was to be prepared and Sukhwant Singh @ Sukha would get that certificate prepared and that he (Sanjay Talwar) would get amount transferred in their account from his account and then complainant should make payment to Sukhwant Singh; the matter was settled for an amount of Rs.7 lakhs and a sum of Rs.3 lakhs came in account of the complainant; the complainant made online transfer of this amount to Sukhwant Singh, however, Sukhwant Singh could not get the work completed, then Sanjay Talwar and Davinder Singh Gill (present petitioners) started blaming Jagdeep Singh for causing them a loss of Rs.7 lakhs and asked him to pay that amount; Jagdeep Singh contacted Sukhwant Singh @ Sukha but he did not return the amount. On 30.3.2021, Sanjay Talwar and Davinder Singh Gill came to the shop of Karamjit Singh of GS Gas Service on the backside of shop of the complainant and stated to him that they would kidnap Jagdeep Singh at 7:00 p.m. unless their money was returned by that time; they asked Karamjit Singh to convey the message to Jagdeep Singh; on being conveyed about the threat, Jagdeep Singh had committed suicide by hanging from the ceiling fan. On the matter being reported to the police, formal FIR was recorded.

Apprehending their arrest, the petitioners had approached the

Court of Sessions at Moga by moving separate applications for pre-arrest bail, which were assigned to Additional Sessions Judge, Moga, however, their such applications were dismissed by the said Court vide separate orders dated 6.4.2021. As such, the present petitioners have approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel.

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

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 arrest and custodial interrogation.

The allegations against the petitioners are very grave and serious of abetting suicide of Jagdeep Singh by holding out threats to him. Though learned counsel for the petitioner has contended that from the allegations, no abetment is made out more particularly when Sanjay Talwar had given amount to the complainant, which was not being returned. However, I do not find any merit in this contention. While deciding petition for pre-arrest bail, merits of the case are not to be gone into in detail. It is within the domain of the trial Court to come to the conclusion with regard to guilt of the accused on the basis of evidence adduced by the prosecution and considering the statement of accused under Section 313 Cr.P.C. and evidence, if any, adduced by the accused in his defence. However, as the things stand, with both the petitioners being named in the FIR and specific criminal acts attributed to them, it cannot

be taken to be a case of false implication.

The custodial interrogation of the petitioners is necessary for complete and effective investigation. In case custodial interrogation of the petitioners 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.

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.

Therefore, the petition is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

27.4.2021

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)

JUDGE