

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Miscellaneous No.M-22937 of 2021 (O & M)

Date of Decision: *November 17th, 2021*

Nirmal Singh

..... APPLICANT-PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. D.S. Pheruman, Advocate, for the petitioner.

Mr. Sarabjeet Singh Cheema, Assistant Advocate
General, Punjab.

Mr. Vikas Gupta, Advocate, for the complainant.

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Sant Parkash, J

The present petition has been filed under Section 438 for grant of anticipatory bail to the petitioner in FIR No.0021 dated 15.03.2021 under Sections 365, 302, 201, 34 IPC, registered with Police Station, Verowal, District Taran Taran.

The present case has been registered on the statement of Massa Singh (complainant). Complainant stated that his younger brother Major Singh (unmarried) had good relations with Manjinder Singh who is brother of petitioner. Manjinder Singh was running a social worker channel and the work of chit fund (committee). Major Singh had invested in 2/3 committees with Manjinder Singh. The terms of these committees had already been over and an amount of ₹ 4.5 lac was due towards Manjinder

Singh. On 11.03.2021 at about 08.45 am, Major Singh went to the house of Manjinder Singh to collect money but he did not return. Accordingly, FIR No.21 dated 15.03.2021 was registered under Section 365 IPC at Police Station Verowal.

On 17.03.2021, complainant got recorded supplementary statement (vide DDR No.27) to the effect that son of his uncle namely Dalbir Singh received an information regarding a dead body lying in the canal minor at T-Point, Vadala Kalan, whereupon, complainant alongwith Dalbir Singh went there and found that the same belonged to his younger brother Major Singh. Complainant raised suspicion that his brother had been murdered as he did not return on 11.03.2021 from the house of Manjinder Singh.

In the interregnum, Manjinder Singh was arrested by the police on 15.03.2021. During investigation, Manjinder Singh made a disclosure statement that on 11.03.2021, Major Singh had come to his house for demanding his money. At that time, his brothers, Nirmal Singh and Pargat Singh were also present. After exchange of hot words, Manjinder Singh caught hold of Major Singh with the help of his brothers and they administered him intoxicating tablets after dissolving them in juice. Nirmal Singh, petitioner, caught hold of Major Singh from his arms and Pargat Singh handed over a ghotna to Manjinder Singh. Manjinder Singh hit the same on the head of Major Singh whereupon he fell down and died. Thereafter, legs and arms of Major Singh were tied; wrapped in a sheet and put in car bearing No.PB-46-Z-9230. Thereafter, Manjinder Singh and his brothers threw the dead body in a drain bridge of village Vadala Kalan.

Learned counsel for the petitioner has vehemently contended that petitioner is an Army personnel and posted at Sikh Regiment at Madhya Pradesh. He was promoted to the post of Naib Subedar from the rank of Havildar. He was granted casual leave w.e.f. 26.02.2021 to 13.03.2021 in order to celebrate his promotion at his village Bhalojla, District Tarn Taran. After exhausting his leave period, he joined his duties on 14.03.2021 at 02:00 pm and there is no question of his being present in the house on the day of occurrence or making of extra judicial confession to Puran Singh on 15.03.2021. He had strained relations with his brother Manjinder Singh and has been falsely implicated in the case.

Learned counsel for the State has opposed the prayer made by the petitioner submitting that a serious/ heinous crime has been committed by the petitioner in connivance of his brothers.

Learned counsel for the complainant has submitted that Manjinder Singh (brother of petitioner) made a confessional statement to the effect that Major Singh was murdered with the help of his brothers Nirmal Singh (petitioner herein) and Pargat Singh. Police procured the location of petitioner which shows that he was present at the place of occurrence on the day of occurrence.

I have heard the submissions made by learned counsel for the parties and perused the record.

Admittedly, main accused Manjinder Singh is real brother of petitioner Nirmal Singh. Petitioner was granted leave w.e.f. 26.02.2021 to 13.03.2021 to celebrate his promotion with his family members. There is no cogent evidence to believe that petitioner had strained relations with his

brother Manjinder Singh and thus, in my opinion, there was no occasion for Manjinder Singh to lie or to implicate his own brother.

Learned counsel for the petitioner has vehemently argued that the entire prosecution story stands falsified from the fact that Puran Singh got recorded his statement that the petitioner met him on 15.03.2021, whereas the petitioner had already joined his duties on 14.03.2021. This contention of learned counsel stands rebutted from the supplementary statement of Puran Singh recorded under Section 164 Cr.P.C. wherein he clarified that he met petitioner on 12.03.2021 and he (petitioner) made an extra judicial confession regarding murder of Major Singh.

There is one another glaring circumstance which is sufficient to draw an inference that petitioner was present at the time of alleged occurrence. The tower locations of petitioner's mobile have been collected by Investigating Agency showing his presence in his house on the day of occurrence. Be that as it may, the plea of alibi is a matter of evidence and the documents annexed are matter of trial which require to be proved during trial.

In the considered view of this Court and keeping in view the totality of facts & circumstances, the custodial interrogation of the present petitioner would be necessary in order to reveal the circumstances leading to the murder of Major Singh. The offence alleged to have been committed by the petitioner and the co-accused is very serious in nature and taking into consideration the mode and manner of the commission of offence, no ground is made out to extend extraordinary jurisdiction of granting anticipatory bail.

In view of what has been discussed above and without commenting anything on the merits of the case, there is no merit in the present petition and the same is hereby dismissed.

Since the main petition itself has been decided, any pending miscellaneous application, also shall stands disposed of.

**(Sant Parkash)
Judge**

November 17th, 2021
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No