

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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Date of decision:6.8.2021

1. CRM-M-29139 of 2021

Naresh Kumar

... Petitioner

versus

State of Punjab and others

... Respondents

2. CRM-M-29152 of 2021

Naresh Kumar

... Petitioner

versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Inderjit Sharma, Advocate,
for the petitioner

...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

Vide these petitions, the petitioner, i.e. the father of the deceased, Anand, seeks that the bail granted by the learned Additional Sessions Judge, Bathinda, to respondents no.2 and 3 in CRM-M no.29139 of 2021 and to respondent no.2 in CRM-M no.29152 of 2021, be cancelled, they being accused of the commission of an offence punishable under Section 306 read with Section 34 of the IPC, they being the parents-in-law and widow respectively of the deceased.

Though learned counsel for the petitioner vehemently argues that the deceased committed suicide wholly on account of instigation by respondents no.2 and 3/respondent no.2 in each of these petitions, what needs to be first seen by this court is the fact that as per the orders of learned Additional Sessions Judge, both dated 5.7.2021, the said respondents had been admitted to interim bail by that court on 31.5.2021 and thereafter, a statement was made by one ASI Malkit Singh (presumably the investigating officer/a representative of the investigating officer in any case before that court), all the three aforesaid accused had joined investigation and their custodial interrogation was not required.

(Learned counsel for the petitioner has not refuted that ASI Malkit Singh was not the investigating officer, or that he was not authorised to represent the investigating officer).

That being so, I would see no reason to entertain these petitions in the light of the ratio of the judgment of the Supreme Court in M.C.Abraham versus State of Maharashtra, (2003) 2 SCC 649, wherein it was held that once the investigating agency itself did not require the custodial interrogation of an accused, no court would normally be within its jurisdiction to direct the arrest of an accused (unless of course there were special circumstances for the same), with the Supreme Court having further in fact held that even if a petition seeking anticipatory bail is dismissed, that does not necessarily imply that the accused must be arrested.

It was held that whether custodial interrogation of an accused is required or not is completely at the discretion of the investigating agency

and if the investigating officer feels that the investigation can progress without the arrest of the accused, then that was the prerogative of the investigating agency itself.

Consequently, without making any comment whatsoever on the merits of the case, I would see no reason to entertain these petitions, which are dismissed *in limine*.

A photocopy of this order be also placed on the file of the other connected case.

6.8.2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No