
Hardeep Singh v. State of Punjab

Present: Mr. Karan Choudhary, Advocate,
Mr. Vinod Kumar Kaushal, Advocate,
Mr. G.S. Sandhu, Advocate, and
Mr. Gagandeep Singh Simble, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab

Mr. J. S. Mahal, Advocate,
for the complainant.

Case heard via video conferencing.

CRM-25512 of 2020 in
CRM-M-26417 of 2020

Vide this application, the petitioner in the accompanying petition seeks to place on record a copy of the written statement filed by the State to CRM-M-20383 of 2020, as also a copy of the order dated 14.09.2020 passed by the learned Addl. Sessions Judge, Gurdaspur, admitting the co-accused of the petitioner, i.e. Harwant Singh, to bail under the provisions of Section 439 of the Cr.P.C.

Notice in the application.

Mr. Sandeep Singh Deol, learned DAG, Punjab, accepts notice at the asking of the court.

Since the application is simply being filed to the aforesaid effect, it is allowed subject to all just exceptions and the written statement referred to hereinabove as also the order of the learned Addl. Sessions Judge, Gurdaspur, dated 14.09.2020, are ordered to be taken on record as Annexures P-8 and P-9 respectively, with the accompanying petition.

CRM-4637 of 2021

Learned counsel for the petitioner also refers to CRM-4637 of 2021 filed by him, seeking to place on record what is stated to be a statement of the complainant, i.e. Darbara Singh, to the effect that he had a doubt that his son had been murdered by one Sahba and Baba, as also some other unidentified persons by hatching a conspiracy.

Learned counsel submits that the said statement had in fact been annexed with the report submitted under Section 173 of the Cr.P.C. and that the petitioner has obviously not been named therein by the complainant.

Notice is issued in the said application, with learned State counsel accepting notice at the asking of the court.

Since the annexure sought to be placed on record is a statement said to have been annexed with the report under Section 173 of the Cr.P.C. , the application is allowed subject to all just exceptions and the aforesaid annexure ordered to be taken on record as Annexure P-10 with the accompanying petition.

CRM-M-26417 of 2020

On 15.10.2020, the following order had been passed by this court:-

“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.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.39, dated 01.04.2020, having been registered at Police Station Sadar Batala, alleging therein the commission of offences punishable under Sections 302, 201 and 34 of the IPC.

Pursuant to previous orders passed, an affidavit of the DSP, Fatehgarh Churia, Police District Batala, has been filed,

annexing therewith the statement said to have been made by one Hira Singh, as regards an extrajudicial confession made to him by the co-accused of the petitioner, i.e. by Baljit Singh and Amritpal Singh, in which the petitioner is stated to have been named as a person who accompanied them when they killed the deceased.

Upon query as to the cause of the death, neither learned counsel for the complainant, nor the petitioner, nor even the State counsel, has the *post mortem* report with them, though as per learned counsel for the complainant, it was Baljit Singh who hit the deceased with a *datar*, though he submits that he took the petitioner and other co-accused alongwith, who also beat him up.

Learned counsel for the complainant further submits that a confessional statement has also been made by one of the co-accused, Gurpreet Singh, also implicating the petitioner.

He therefore submits that the petitioner may not be admitted to even interim anticipatory bail as it would hamper the entire investigation.

Learned counsel for the petitioner however submits that the statements of Hira Singh and Gurpreet Singh had been made after an order was passed by this court (co-ordinate Bench), on 21.07.2020, in CRM-M-20383-2020, to the effect that if it was found that no effective steps would be taken in the investigation, the SSP, Batala, would appear before the court.

Consequently, without making any comment on what has been contended on all sides, in view of the fact that the petitioner is stated to have been implicated on a statement initially made by the aforesaid Hira Singh, after this court had intervened in the matter, in the petition filed by the father of the deceased, the SSP, Police District Batala, is directed to file his own affidavit, giving therein, after a thorough enquiry, as to whether the aforesaid Hira Singh has been known to be appearing as a witness for the police, or as a person who has

been reporting 'extra-judicial confessional statements' earlier also, or not.

The SSP would also state in his affidavit the details of the investigation carried out so far in the present case.

In the meanwhile, the petitioner is directed to join investigation within 5 days 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 Ilaka 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 09.11.2020.

It is made clear that at this stage this interim order would operate only till the next date of hearing, subject to what is stated in the affidavit of the SSP.”

Thereafter an affidavit of the SSP, Police District Batala, had also been filed, in which essentially it has been stated that as per the call details record of mobile phone of the deceased, the last two calls were shown to have been made by him to one woman named Rupa and one Labha Massi who were joined in the investigation, but nothing relevant to the death of deceased was found.

It was also found to have been revealed by the father of the deceased that his son was habitual of taking heroin and was in the company of bad elements including the petitioner, but that none of those persons came to his house to condole the death of his son and in fact with them having locked their houses and gone to some undisclosed places alongwith their families, due

to which suspicion was cast upon them that they may have killed his son.

It is next stated that despite best efforts, their whereabouts could not be traced out and that two Special Investigating Teams were also constituted to investigate into the matter.

Thereafter, the factum of the co-accused of the petitioner having made an extrajudicial confession to Hira Singh (as referred to in an earlier order of this court) has been stated by the SSP, on the basis of which the petitioner and his co-accused were so arraigned in the FIR. Another extrajudicial confession is stated to have been made before Harjit Singh, brother of the complainant (father of the deceased) by the petitioner and his co-accused, with them also having asked him for a matchbox for setting the dead body on fire.

The affidavit next gives the details of the efforts made by the police to try and arrest the accused between 03.09.2020 and 09.09.2020, but with them not having been arrested.

It has next been stated that though the petitioner has joined investigation and even the report under Section 173 of the Cr.P.C. has been presented to the competent court on 29.10.2020, however, as per the SSP, the petitioner did not cooperate with the investigation and did not disclose the whereabouts of his other co-accused.

The factum of another FIR registered against the petitioner under the provisions of Sections 307 etc. of the IPC has also been mentioned, though the petitioner was acquitted of the charges framed against him in that case.

Last, it has been stated by the SSP that as per the report obtained by him from the DSP, Fatehgarh Churian, Hira Singh has not appeared as a witness for the police in any case nor has he any ever reported any other

extrajudicial confession made to him.

Learned counsel for the petitioner having also submitted that no details with regard to the petitioners' mobile phone location during the period in question have been placed on record, learned State counsel submits that an affidavit (dated 30.03.2021) to that effect has also been filed (not seen to be on record), vide which it is stated that the petitioners' and his co-accuseds' mobile phones were found to be switched off between 3:00 p.m. to 5:00 p.m. on 31.03.2020 and thereafter the mobile phones of the co-accused of the petitioner were found to be working in neighbouring villages.

Whereas that may or may not implicate the petitioner and his co-accused in any manner, however, in the entire circumstances of the case as referred to hereinabove, I would find no reason to continue with this petition by which the petitioner seeks to be admitted to anticipatory bail.

Consequently, without making any comment on the actual merits of the case, this petition is dismissed, with the interim order vacated.

CRM-M-20383 & 25174 of 2020;
CRWP-7759 of 2020; CRWP-489 of 2021 and
CRM-M-41566 of 2020

In view of the paucity of time, hearing in all these connected petitions is adjourned to 26.04.2021.

To be shown in the urgent motion list.

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

April 22, 2021
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(AMOL RATTAN SINGH)
JUDGE