

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

CRM-M-40530-2020 (O&M)

Date of decision:

Iqbal Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. P. S. Sidhu, Advocate
for the petitioners.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. L. S. Sekhon, Advocate
for the complainant.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of anticipatory bail in FIR No.84 dated 18.07.2020 under Sections 302/34 IPC (during investigation offence under Section 302 IPC was deleted and offence under Section 306 IPC added), registered at PS Sadar Moga, District Moga.

The operative part of the order dated 26.10.2021, vide which the petitioners have been granted interim bail, is reproduced below:

“The FIR was lodged on the statement of Sukhdeep Singh, who stated that he and his brother namely Chamkaur Singh (deceased) were agriculturists. Adjoining to their land, there is land of petitioners. About two years back, the petitioners ploughed the common passage. There is electric motor of 15 horse power in the name of Jaswant Singh- father of complainant. The transformer is also in the name of his father but the petitioners are claiming that it belonged to them. Shamsher Singh and Baljot Singh residents of Salina are

helping the petitioners being their relatives. On 19.06.2020, the complainant and his brother removed their submersible motor and took it to their home. Iqbal Singh-petitioner No.1 gave a complaint against the complainant and his brother Chamkaur Singh(deceased) at Police Station Sadar Moga regarding this. On 20.06.2020, both the parties went to the Police Station but respectable persons sought time from the police till 24.06.2020 for effecting compromise between the parties. On 21.06.2020, at about 05:30 a.m., Chamkaur Singh (deceased) was standing outside the gate of the house of the petitioners. At that time Shamsher Singh and Baljot Singh were also present in their house. Iqbal Singh-petitioner No.1 and Shamsher Singh dragged Chamkaur Singh inside their house. After that the petitioners alongwith Shamsher Singh and Baljot Singh forcibly gave some poisonous substance to Chamkaur Singh. Hearing the noise, the complainant along with his cousin went there. By then the accused had already thrown Chamkaur Singh outside their house. Chamkaur Singh disclosed the entire occurrence to the complainant. Then the complainant brought his brother to his house, from where he was taken to Medicity Hospital, Moga where he remained admitted till 04.07.2020 when he was referred to DMC Ludhiana. On 17.07.2020, brother of complainant expired at about 01:00 p.m at DMC, Ludhiana.

Sh. Sant Pal Singh Sidhu, Ld. counsel for the petitioners has submitted that a totally false and concocted version has been given by the complainant. The actual facts are that there is dispute regarding land situated at Village Salina, Tehsil and District Moga between the parties. A civil suit for declaration was filed by the petitioners against one Bant Singh. The Civil Court vide order dated 03.01.2019 ordered status-quo regarding the nature and possession of suit property. Chamkaur Singh (deceased) alongwith his family members took out the submersible electric motor from the disputed land regarding which the status-quo order had been passed by the Civil Court. Iqbal Singh-petitioner No.1 submitted a complaint at Police Station Sadar Moga on 19.06.2020 for taking action against the complainant and Jaswant Singh. Both the parties including

respectable persons had gone to the police station in connection with the complaint. They all had requested for and were granted time till 24.06.2020 to arrive at some amicable settlement.

Mr. Sidhu stated that on 21.06.2020 at about 05:45 a.m., Chamkaur Singh (deceased) came to the house of the petitioners and with an intention to put pressure upon the petitioners consumed some poisonous substance in front of their house. After hearing the noise family members of petitioners came outside their house and saw Chamkaur Singh lying on passage in front of their house. In this regard they prepared a video clip which shows Chamkaur Singh lying there and later being taken away by the complainant and his cousin Manpreet Singh.

He stated that on receipt of information the police party visited the Medicity Hospital on 21.06.2020 where Chamkaur Singh (deceased) was declared not fit to make statement. The statement of the complainant who was present in the Hospital was recorded. He stated that he was not aware as to why Chamkaur Singh (deceased) had consumed poisonous substance and only he could tell about it. On 24.06.2020 Chamkaur Singh was declared fit to make statement wherein he stated that on 21.06.2020 at about 5.30 AM he had gone to the house of the petitioner Iqbal Singh where Nirmal Singh, Shamsher Singh and Baljot Singh were present. On seeing him Shamsher Singh raised Lalkara. They took him inside the house, forcibly administered poison to him and then threw him outside the house in front of their gate.

Mr. Sidhu has argued that the matter was inquired into. The version of the deceased was found to be not true. It was found that two of the co-accused namely Shamsher Singh and Baljot Singh were not present at the time of alleged occurrence. It was concluded that in fact Chamkaur Singh (deceased) in order to put pressure on the petitioners had himself consumed the poisonous substance. Consequently the offence u/s 302 IPC was deleted and Section 306 IPC was added.

He argued that even the offence under Section 306 is also not made out against the petitioners. He contended that the

petitioners had already moved a complaint before the police regarding the removal of the submersible pump by the complainant and the deceased, and the parties had taken time till 24.06.2020 to attempt to resolve the dispute amicably. The petitioners were merely pursuing their legal remedies. There is no allegation or material suggesting any abetment on their part. In fact, as was clearly established in the inquiry, it was the deceased himself who consumed poisonous substance in front of the house of the petitioner with a view to falsely implicate them and put undue pressure on them. He states that the petitioners are close relatives of the deceased. They are ready and willing to co-operate with the investigation.

Mr. Karanvir Singh, Ld. AAG and Mr.P.S. Sekhon, Ld. Counsel for the complainant argued that the deceased has died on account of consumption of some poisonous substance. The petitioners have been specifically named by the deceased in his statement recorded on 24.06.2020. They have opposed the grant of anticipatory bail to the petitioners.

Having considered the entire material, particularly the findings of the inquiry that in fact Chamkaur Singh (deceased) in order to put pressure on the petitioners had himself consumed the poisonous substance, in my view, the petitioners are entitled to the benefit of interim anticipatory bail.

Adjourned to 14.12.2021.”

Learned counsel for the petitioners submits that the petitioners, in pursuance to the order dated 26.10.2021, have already appeared before the SHO/Investigating Officer and have joined the investigation.

Learned counsel for the State, on instructions from ASI Sukhmandar Singh, assisted by learned counsel for the complainant and on the basis of the affidavit of the DSP (City), Moga, has not disputed the factual position and submits that the petitioner has joined the investigation and is no more required for any further investigation.

As per aforesaid affidavit, on account of a land dispute, the

petitioners forcibly took Chamkaur Singh to their house and administered him some poisonous substance. It is further stated that later on, the only offence under Section 306 IPC was made out and the petitioners have joined investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioners, vide order dated 26.10.2021, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

14.12.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No