

CRM-M-42014-2020(O&M)

and connected case

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

1. CRM-M-42014-2020(O&M)

Amarjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

2. CRM-M-35059-2020(O&M)

Kamalpreet Singh @ Rinku

.....Petitioner

Versus

State of Punjab

.....Respondent

Date of decision:29.01.2021

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:- Mr.Navjot Singh, Advocate for the petitioner
in CRM-M-42014-2020**

**Mr. Kuldeep V Singh, Advocate for the petitioner
in CRM-M-35050-2020**

Ms. Samina Dhir, DAG, Punjab

Ms. Arti, Advocate for the complainant

ANIL KSHETARPAL, J.

By this order, two criminal petitions i.e CRM-M-42014-

2020 and CRM-M-35059-2020, shall stand disposed of.

The petitioners in both the petitions pray for grant of bail pending trial in a criminal case arising from FIR No. 307 dated 13.11.2005 registered under Section 365, 342, 323, 308 & 34 IPC (Sections 302 & 120-B IPC and Section 3(1)(a) and 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were added lateron) at Police Station Lehra, District Sangrur.

The petitioners in both the petitions, Amarjit Singh and Kamalpreet Singh @ Rinku are in custody since 14.11.2019. However, Amarjit Singh was released on interim bail for a period of three months vide order dated 14.08.2020.

This Court has already granted bail to two co-accused namely Yadwinder Singh @ Lucky and Balwinder Singh @ Bitta. On 14.08.2020 while deciding the bail petition of Yadwinder Singh @ Lucky and interim bail application of Amarjit Singh, the following order was passed:-

“By this order, Criminal Misc. No. M-15581 and Criminal Misc.No. M-17027 of 2020 shall stand disposed of.

In this case, the FIR No. 307 was registered on 13.11.2005 under Section 365, 342, 323, 308 & 34 IPC (Section 302 & 120-B IPC and Section 13(1)(a) and 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the 1989 Act”) were added lateron) at Police Station Lehra, District Sangrur.

Late Sh. Jagmail Singh son of Pritam Singh had stated that on 21.10.2019, he had a fight with Rinku son of Amarjit Singh and Jugnu son of Satpal Singh, which was later on settled. On 07.11.2019 at about 9.00 A.M. when he was present in the house of Gurdial Singh (Panch), Rinku, Lucky (Yadwinder Singh) and Beeta alias Binder Singh

came to him and stated that they want me to accompany them to get medicine. Thereafter, Rinku and Beeta made him to sit on the motorcycle and took him to Rinku's house where Amarjit Singh was also present. Rinku, Beeta and Amarjit Singh beat him badly with wooden sticks and rods after tying him. He was tied for 2/3 hours. Thereafter, Laddi son of Puran arrived there and got him freed and sent home. He has been going to the Civil Hospital, Sangrur for treatment for the last 2/3 days, but he was not admitted there. Thereafter, his wife Manjit Kaur got him admitted in the Civil Hospital, Lehra on 10.11.2019, however, he came back home where Assistant Sub Inspector Gamdoor Singh recorded his statement but at that time, he was not in his senses. Yesterday, when he went to the Civil Hospital, Sangrur because of his ill health, he was further referred to Rajendra Hospital, Patiala. He further stated that when Rinku was beating him, in being asked for water but they went to the bathroom, collected their urine and made him to drink it. Late Sh. Jagmail Singh died in PGI at Chandigarh on 16.11.2019 and consequently, offences under Section 302 and 120-B IPC were added. Both the petitioners are in custody since 14.11.2019. On conclusion of the investigation, the challan under Section 173 Cr.P.C. Has been filed in the Court on 01.11.2019. However, the trial is yet to commence.

Learned counsel appearing for the petitioner-Yadwinder Singh has contended that the first dispute between Rinku and Jugnu on the one side and Jagmail Singh on the other side took place on 27.10.2019, resulting in registration of the Daily Diary Report on 30.10.2019. Jagmail Singh was admitted in the Civil Hospital, Lehra on 27.10.2019. Thereafter, the parties to the dispute entered into a settlement on the intervention of Panchayat, which was reduced into writing on 06.11.2019 and Rapat No. 9 was entered in the police record on 10.11.2019. He has further, while drawing attention of this Court to Rapat No. 9 dated 10.11.2019, has submitted that the aforesaid Rapat was entered on the statement of Jagmail Singh to the effect that he was present in the house of his relative on 08.11.2019 at 9.00 A.M., when Binder Singh alias Beeta, Rinku and Amarjit Singh came there and invited him to join them in drinking alcohol. Thereafter, he was taken to Rinku's house, tied and beaten. He further submitted that the

name of the petitioner was introduced for the first time when the FIR was registered. He further submitted that in the FIR also, petitioner-Yadwinder Singh is not alleged to have beaten the deceased. The only role attributed to the petitioner is that he came to deceased relative's house, where he was present and thereafter, Rinku and Beeta alias Binder Singh took him to Rinku's house. He, hence, submitted that the petitioner has been falsely implicated in the present case. He has further, while referring to the medical record of Jagmail Singh, contended that the deceased was a chronic smoker and an alcoholic and in spite of the advice of the doctor, he refused to get himself treated in the government hospital. He further submitted that Jagmail Singh has died on account of traumatic gas gangrene with septic shock with rhabdomyolysis with acute kidney injury.

On the other hand, learned State counsel assisted by the learned counsel for the first informant has opposed the application for grant of bail to the petitioner-Yadwinder Singh alias Lucky. It has been contended by the learned counsel appearing for the first informant that the present petition is not maintainable as only an appeal can be preferred as provided in Section 14A of the 1989 Act. She relies upon a Division Bench judgment of the Patna High Court in ***Bisheshwar Mishra and Others v. State of Bihar 2019 Indlaw Patna 1716***. She further contended that the deceased was brutally beaten and thereafter, not deprived of proper medical healthcare.

Learned counsel representing the petitioner-Amarjit Singh has submitted that the petitioner is 70 years of age. He had suffered a massive brain stroke while in the jail resulting in paralysis of right side and hence, it is submitted that the petitioner should be released on interim bail for a period of six months.

This Court has considered the submissions of learned counsel for the parties. It would not be appropriate, at this stage, to make any observations on the merits of the case. However, prima facie, the name of the petitioner-Yadwinder Singh alias Lucky has been introduced subsequently. Still further, the petitioner-Yadwinder Singh is not alleged to have beaten the deceased. He is in custody for eight and half months approximately. He is not involved in any other criminal case. The charges are yet to be framed. Therefore, the

conclusion of the trial is likely to take time.

With regard to the objections of learned counsel for the first informant, it may be noted that in the present case, the impugned orders have been passed by the learned Additional Sessions Judge, Sangrur on 04.06.2020. Section 14A of the 1989 Act provides for filing of an appeal against the order passed by the Special Court or Exclusive Court. In any case, the appeal under Section 14A of the 1989 Act would be maintainable before this Court. In judgment relied upon by Learned counsel, the Division Bench of the Patna High Court has held that no application shall lie before the High Court under Section 438 or 439 Cr.P.C. Before the Division Bench, various applications for grant of pre-arrest bail under Section 438 Cr.P.C. were referred to for authoritative pronouncement on the maintainability and in that context, the Division Bench decided the reference. Since the orders in the present case have not been passed by the Special or Exclusive Court as also the appeal, in any case, is maintainable before this Court, therefore, this Court does not deem it appropriate to reject the application only on this ground.

Keeping in view the aforesaid facts, it is considered appropriate to direct the release of petitioner-Yadwinder Singh alias Lucky (In Criminal Misc. No. M-15581 of 2020) on bail subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate.

As regards, the prayer of petitioner-Amarjit Singh (In Criminal Misc. No. M-17027 of 2020), it may be noted that in the reply filed by the official respondents, it is admitted that the petitioner is a known case of HTN/CVA/BPH and was under treatment from Rajendera Hospital, Patiala. He was referred to the Civil Hospital, Shri Muktsar Sahib for an expert opinion from where he was referred to G.G.S. Medical College, Faridkot and he was admitted there.

Due to the spread of novel corona virus, the jails are also not safe and keeping in view the age of petitioner-Amarjit Singh, he is directed to be released on interim bail for a period of three months subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate.

With these observations made above, both the petitions are allowed.

The miscellaneous application(s) pending, if any, shall also stand disposed of in terms of the main order.”

Learned counsel for the petitioners contends that the prosecution has not collected any forensic evidence and the petitioners are first time offenders. They further submit that on completion of investigation, challan has been presented, however, charges are yet to be framed.

On the other hand, Ms. Samina Dhir, DAG, Punjab, has pointed out that the petitioners are involved in a heinous crime.

Ms. Arti, Advocate, appears for the first informant and opposes the petitions.

In the present petitions, FIR was registered in the month of November, 2019. After a period of 1 year and 3 months approximately, the police has completed the investigation. However, the trial of the case is yet to start. Even charges have not been framed.

Learned State counsel on instructions from SI Vikramjit Singh admits that the petitioners have no criminal antecedents. Further attention of the Court has not been drawn to any forensic evidence collected by the prosecution against the petitioners.

Without commenting on the merits of the case and keeping in view the aforesaid facts, it is considered appropriate to release the petitioners – Amarjit Singh and Kamapreet Singh @ Rinku on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of the

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concerned trial Court/Duty Magistrate.

Both the petitions are allowed.

29.01.2021	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes /No
Whether Reportable	Yes / No