

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101)

CRM-M-47275-2021

Date of Decision : November 11, 2021

Sukhwinder Singh alias Sukhjinder Singh alias Bog

.. Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Siddharth Gupta, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.
(keeping in view the advance copy given).

Harsimran Singh Sethi J. (Oral)

Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in respect of FIR No. 0176 dated 07.08.2021, registered under Sections 302, 452, 34 IPC (Section 325 IPC added later on), at Police Station Gharinda, District Amritsar (Rural).

Learned counsel for the petitioner argues that though, there are allegation against the petitioner of throwing bricks upon the deceased but only one brick has allegedly hit the deceased due to which he has died and the said allegation of hitting the deceased with the brick, due to which victim died, is upon the co-accused, namely, Ravinder Singh @ Bau. Learned counsel for the petitioner submits that the injury attributed to the petitioner only attracts Section 325 IPC, which is bailable in nature.

Learned counsel for the petitioner further submits that as the petitioner is ready to join the investigation and cooperate, he may kindly be extended the benefit of anticipatory bail.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who is present in Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel submits that as there was a common intention to kill the deceased hence, merely that the brick hurled by the petitioner hit on the left toe of the deceased carries no meaning as the petitioner will also be liable for the act alleged upon the co-accused. Learned counsel for the respondents submits that the investigation is at preliminary stage and as a person has lost his life due to the combined act of all the accused, the custodial interrogation of the petitioner is necessary.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, the allegations alleged are that all the accused with the common intention entered the premises where the deceased was present and started throwing bricks, which hit the victim, who died merely that the brick hurled by the petitioner had hit on the toe of the deceased, cannot be a ground at this stage to give him anticipatory bail.

Keeping in view the facts and circumstances of this case, merely asking the petitioner to join the investigation and cooperate will not suffice the investigation as the allegations against him are serious and the actual truth needs to be elicited by the investigating agency for which the custodial interrogation of the petitioner is necessary. Even the Hon'ble

Supreme Court of India in *State represented by the C.B.I. Vs. Anil Sharma*, 1997(4) R.C.R.(Criminal) 268, has held that in case where serious allegations have been alleged and the truth needs to be elicited from the accused, the same can only be done through the custodial interrogation as compared to questioning a suspect, who is already on anticipatory bail.

No ground is made out to grant the petitioner the benefit of anticipatory bail.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

November 11, 2021
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No