

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

**CRM-M-39298 of 2019 (O&M)
Date of Decision: October 26, 2021**

Tarsem Singh alias Sema

...Petitioner

Versus

State of Punjab

...Respondents

and

2.

CRM-M-31564 of 2020 (O&M)

Major Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr. D.S. Kahlon, Advocate
for the petitioners.

Mr.Sarabjit Singh Cheema, AAG Punjab.

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This order shall dispose of two petitions bearing CRM-M-39298-2019 and CRM-M-31564-2020 as the both have arisen out of the same FIR.

The petitioners in both the petitions have sought regular bail under Section 439 Cr.P.C. in case FIR No.137 dated 25.08.2017, under Sections 302/201/34 IPC, registered at P.S Lopoke, Tehsil Ajnala, District Amritsar.

CRM-M-39298-2019 has been filed by Tarsem Singh alias

Sema and CRM-M-31564-2020 has been filed by Major Singh.

The FIR was lodged on the statement of one Lakhwinder Kaur wife of Harjinder Singh (deceased). She stated that there were three children from their marriage. Two of them are daughters aged about 14 years and 12 years. The youngest is a son aged about 9 years. Her husband is operating school vans on private basis, for which he has appointed drivers. Sometimes he even drives himself. He also engages in agriculture. At about 07:00 p.m on 24.08.2017 Harjinder Singh (deceased) had gone to village Chogwaan on his motorcycle for purchasing domestic articles but he did not return at night. The next day i.e. 25.08.2017, at about 11:00 am, the Sarpanch of the village came to their house and informed that the dead body of Harjinder Singh alias Neeta has been found in the drain between village Sodhian to Dharamkot. Upon this, the complainant, her father-in-law Ajit Singh along with one Dalbir Singh reached the spot where she saw that the dead body of her husband Harjinder Singh had been fished out from the drain. The dead body was identified by her. There were injuries on the rear portion of his head with sharp edged weapons. There was bleeding and other injuries also on the body.

Learned counsel for the petitioners states that the petitioners are not named in the FIR. They have been falsely implicated on the basis of supplementary statement suffered by the complainant. A bare perusal of the FIR would show that prima-facie no case is made out against the petitioners. He has further submitted that the investigation has already been completed and challan stands presented. All the material witnesses have been examined and there is no evidence to implicate the petitioners.

Ld. Counsel has placed on record the depositions of PW1

Singh, PW5 ASI Tarlok Singh, PW7 ASI Parveen Kumar, Incharge Cyber Cell, PW8 ASI Manjit Singh, PW9 Dr. Jatinder Pal Singh Sr. Resident Department of Forensic Medicine and Toxicology, PW10 Inspector Palwinder Singh and PW11 SI Vijay Kumar.

PW1- the complainant (wife of deceased) and PW2 Ajit Singh (the father of deceased) have deposed as per the prosecution version. They stated that Tarsem (petitioner) had illicit relations with Jaswinder Kaur wife of Baljinder Singh (the younger brother of the deceased.) The deceased used to object to this relationship. Because of this, accused Jaswinder Kaur and the petitioners conspired to get rid of the deceased.

PW3 Paramjit Singh is the witness of last seen. He deposed as per his statement u/s 161 Cr. P.C. recorded on 26.8.2017. He stated that on 24.8.2017 he had seen Tarsem Singh (petitioner) driving a motorcycle. An unknown person was sitting behind him. A person who appeared to be drunk was sitting in between them. The next day he learnt that one dead person was lying on the road between village Sorian to Dharamkot. He went there and saw that the dead person was the same whom he had seen previous night sitting in the middle of the motorcycle who was wearing a red shirt and white pyjama.

PW4 Vikram Singh resiled from his statement to the police that the petitioners had got recorded an extra judicial confession before him regarding having committed the crime.

PW9 Dr. Jitender Pal who had conducted the post mortem examination on the dead body of Harjinder Singh deposed that there were 21 injuries on the body of deceased. All the injuries except injury No.17

failure of function of brain as a result of injuries on head and face (injuries No.1 to 6) which were sufficient to cause death in the ordinary course.

In cross examination he deposed that petitioner Tarsem Singh was present at the time of post mortem examination of the deceased alongwith PW2 Ajit Singh. He deposed that the police had not brought any weapon at the time of post mortem examination or any time thereafter so that he could tell whether the injuries were caused by *datar* or *kirpan*.

PW10 Inspector Palwinder Singh (IO) deposed that during the course of investigation the mobile of deceased Harjinder Singh was taken into possession. After getting it examined from Cyber Cell Amritsar it was revealed that the last call was made from that mobile on the mobile of Lovepreet Kaur. Lovepreet Kaur was joined in the investigation. She disclosed that she had illicit relations with deceased Harjinder Singh. She had contacted Harjinder Singh on the night of 24.8.2017. Harjinder Singh had told her that she was with Major Singh at village Lokate. Tarsem Singh was also to join them as there was a birthday party of son of Major Singh. Later, when she tried to contact Harjinder Singh on his mobile the same was found switched off after 9/10 p.m. He also deposed that the petitioners were arrested on 28.8.2017. During interrogation petitioner Tarsem Singh disclosed that as per plan on 24.8.2017, deceased was called to the house of Major Singh. There he was given some intoxicant substance mixed in a cold drink. He was strangled with a plastic rope. Blows with a sword were also inflicted on him. Thereafter, his dead body was thrown in drain after carrying it on motorcycle. On his disclosure the plastic rope, *kirpan*, a black colour *parna* of deceased and his mobile were recovered. The

disclosure statement. Accused Jaswinder Kaur was arrested on 28.8.2017. She disclosed that she had handed over one pair of gold ear rings and one ladies' gold ring to Major Singh for committing the crime. On the disclosure of Major Singh, the pair of ear rings and the ladies' ring were got recovered.

PW2 Ajit Singh identified the belongings of Hajinder Singh. He also identified the gold ornament recovered from Major Singh and stated that they belong to his daughter- in- law accused Jaswinder Kaur. He also identified the motorcycle recovered from accused as belonging to his deceased son Harjinder Singh.

In the cross examination of PW10, the petitioners have been able to highlight a number of infirmities in the investigation namely that the Investigating Officer had not sent the sword recovered on the disclosure of accused to the Forensic Laboratory, he did not produce the alleged weapon before the doctor to co-relate the injuries of deceased, he did not produce the case property before the Illaqa Magistrate, he did not record the statement of Baljinder Singh husband of accused Jaswinder Kaur. The Investigating Officer also admitted in cross examination that it was not found that there was any occasion when Tarsem Singh and Jaswinder Kaur could have developed extra- marital relations as Harjinder Singh and his brother Baljinder Singh were residing as a joint family in a common house, thereby putting a question mark on the motive for the offence as projected by the prosecution. The Investigating Officer also admitted that during investigation no facts were revealed as to where the murder of Harjinder Singh was committed. No such place was got identified during

whether there were any blood stains on the motorcycle on which the deceased was allegedly carried. He also stated that it had not come out during investigation that any intoxicant substance was administered to deceased. He did not take into police possession the clothes of accused person nor was any entry recorded that the accused had destroyed their clothes. No photographs were taken into possession regarding birthday party of the son of Major Singh nor any statement of any guest was recorded in this regard. No test identification parade was got conducted from Paramjit Singh after the arrest of accused.

The petitioners are in custody for the last more than four years. The material witnesses have already been examined. The case is based on circumstantial evidence. The trial has been delayed because of the Covid-19 Pandemic.

In the aforesaid facts and circumstances, in my view, the continued detention of the petitioners till the conclusion of the trial may not be justified.

Accordingly, without expressing any opinion on the merits of the case, both the petitions are allowed. The petitioners (Tarsem Singh alias Sema and Major Singh) are directed to be released on bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

October 26, 2021

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No