

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-3243-2022(O&M)
Date of Decision :09.02.2022

Sikandar Singh and Another

....Petitioner(s)

VERSUS

State of Punjab

....Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

ALKA SARIN, J.

Taken up through video conferencing.

CRM-3711-2022

This is an application for placing on record the correct site plans i.e. Annexures A-1 and A-2 in place of site plans already annexed with the main petition as Annexures P-8 and P-11.

Allowed as prayed for subject to all just exceptions.

CRM stands disposed off.

CRM-M-3243-2022

This is a petition under Section 438 CrPC for grant of anticipatory bail to the petitioners in FIR No.210 dated 19.09.2021 registered at Police Station Canal Colony, Bathinda, District Bathinda under Sections 302, 34 of the Indian Penal Code, 1860.

The learned counsel for the petitioners would contend that the petitioners, who are father and son, were not present at the spot at the time of the occurrence nor do they have any enmity with the complainant party. However, they have been falsely implicated alongwith Atul Singh, the co-accused, who is the younger son of petitioner No.1, who was driving the

tractor which hit the deceased Manjeet Singh accidentally. It is further the contention of the learned counsel that the alleged occurrence took place at about 11.30 AM, however, the FIR had been got recorded by the son of the deceased at 9:00 PM i.e. after a delay of 09 hours and the said time had been utilized by the complainant to concoct a false and frivolous story. It is further the contention of the learned counsel for the petitioners that the false story has been concocted with an ulterior motive to illegally occupy and include the passage which is carved out of the land owned by petitioner No.1 and his wife, who had been permitting the neighbourer in the land, for the sake of maintaining brotherhood, to use the passage jointly with them. Learned counsel for the petitioners has further contended that there are sufficient documents on the record appended with the petition to show that petitioner No.1 and his wife are owners of the land.

Notice of motion.

On the asking of the Court, Mr. H.S. Multani, AAG Punjab accepts notice on behalf of State of Punjab while Mr. Parminder Singh, Advocate has put in appearance on behalf of the complainant.

Learned State counsel would contend that the FIR was lodged on the statement of the son of the deceased alleging therein that on the Bir Road they owned approximately 3-3/4 acre land in the field known as Datewala which has been given on Theka to one Gurmail Singh resident of Bir Road. Land of Sikander Singh i.e. petitioner No.1 abuts their land. Further, as per the allegations, on their land they had made a passage to approach the Kotha and petitioner No.1 and others wanted to forcibly use this passage and they had been resisting them in this regard. It is further the allegation that on the fateful day the father of the complainant went to take a

round of the field and was lying on a cot in a verandah in front of the room. In the meantime the petitioners as well as the co-accused Atul Singh came there on their blue coloured Tractor. The co-accused Atul Singh was driving the tractor and the petitioners were sitting on either side of the tractor and on seeing the father of the complainant the petitioners raised a Lalkara that today they would teach the deceased a lesson. Thereafter, in the presence of the complainant, the co-accused Atul Singh with an intention to kill his father ran the tractor over the deceased and crushed the deceased. When the complainant raised a hue and cry the petitioners and the co-accused Atul Singh fled from the spot. The deceased was taken to the Civil Hospital, Bathinda where the doctors declared him dead. The learned counsel for the State has further pointed out that as per the post-mortem report the deceased received a lacerated wound of size 1 x 0.5 cms present on the nasion, clotted blood was present. The deceased also received a lacerated crushed wound of size 25 x 15 cms on the right leg on the medial aspect of thigh underlying blood vessels, soft tissues, muscles and bones were crushed. As per the post-mortem report the cause of death was hemorrhage and shock due to injury No.2, which was sufficient to cause a death in the ordinary course of nature.

Heard.

In the present case undoubtedly there appears to be a dispute qua the passage. The arguments put forth by the learned counsel for the petitioners is that the petitioners have falsely been implicated in the case and that the entire incident was merely an accident which occurred when the co-accused Atul Singh was leveling the land by moving the tractor back and forth. The story as put forth that the deceased out of nowhere suddenly came in front of the tractor and was accidentally hit by the tractor cannot be taken at

its face value considering that the occurrence took place in open fields. The FIR in the present case has been lodged by the son of the deceased and the complainant is an eye-witness of the entire incident. Though the learned counsel for the petitioners has argued that the land was infact owned by the petitioners and the complainant and his father were being allowed to use the passage and that they had no enmity with the complainant and that the accident had been given the colour of a murder, this cannot be accepted at this stage especially in view of the fact that there is an eye-witness account. The petitioners are both stated to have been sitting on the tractor and had raised the Lalkara and thereafter co-accused Atul Singh drove the tractor over the deceased eventually resulting in his death. Only from the interrogation of the petitioners can the entire incident be unfolded.

In view of the above, I do not find this to be a fit case for grant to anticipatory bail to the petitioners. The present petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

It is made clear that any observation made herein shall not be treated as an opinion of expression on the merits of the case.

February 09, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO