

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-5640-2022 (O&M)

Date of Decision:- 29.4.2022

Jarnail Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Harsimran Preet Singh, Advocate, for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Malkiat Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner who has been summoned by the trial Court with the aid of Section 319 Cr.P.C. in respect of a trial arising out of FIR No. 0060, dated 01.07.2020, under Section 306 IPC, Police Station Sherpur, District Sangrur, seeks grant of anticipatory bail.
2. Reply by way of affidavit of Sh. Parminder Singh, Deputy Superintendent of Police, Sub Division Dhuri, District Sangrur has been filed. The same is taken on record.
3. At the time of issuance of notice of motion the following order was passed on 10.2.2022:

“Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.0060, dated 01.07.2020, having been

registered at Police Station Sherpur, District Sangrur, alleging therein the commission of an offence punishable under Section 306 IPC.

Learned counsel for the petitioner submits that the petitioner having been in fact only “put in column no.2” of the report under Section 173 Cr.P.C., he has now been summoned by the learned trial court on an application filed under Section 319 of Cr.P.C. and therefore with his custodial interrogation in any case not required by the police, there would be no reason for him to be not admitted to interim bail.

Learned counsel further submits that all other co-accused of the petitioner have been admitted to bail, with this court also having noticed the video recording that the deceased is alleged to have made prior to committing suicide.

Notice of motion.

Mr.Saurav Khurana, DAG Punjab, accepts notice on behalf of the respondent-State at the asking of the court, with Mr.Tanvir Singh Grewal, Advocate, appearing and accepting notice on behalf of the complainant.

Learned State counsel essentially reiterates that the petitioner having been summoned under Section 319 Cr.P.C., obviously he is an accused in the matter as of today and he should not be admitted to bail.

Mr.Grewal, learned counsel appearing for the complainant submits that the petitioner firstly having been very much named in the FIR itself and further, the deceased having committed suicide for being falsely implicated in the FIR lodged at the instance of petitioner herein/somebody from his family, the petitioner does not deserve to be admitted to bail.

Having considered the matter, first of course, the order passed by this court in CRM-M-20061-2020, filed by one Suraj Bhan (co-accused of the petitioner) on 17.08.2020, needs to be looked at, which is reproduced hereinunder:-

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

A status report having been filed by the Deputy Superintendent of Police, Sub Division Dhuri, District Sangrur, and an affidavit having also been filed by the complainant, it is stated in the reply of the DSP that the petitioner and his co-accused had threatened the deceased, leading to the deceased committing suicide and that the petitioner has also other criminal antecedents, with him however having been acquitted in one case, with in another case an “untraced” report having been sent and with the third case (registered on June 12, 2020) still being under investigation, alleging therein the commission of offences punishable under Sections 341, 323, 506 and 34 of the IPC.

It has also been stated in the reply of the DSP that the deceased recorded a video on his mobile phone on the basis of which one Sukhwinder Singh was nominated as an accused; however, the laboratory has not verified the authenticity of the video in view of the Covid-19 situation.

Learned counsel for the complainant however submits that he has already forwarded

to the Reader of this court the video recording, which may be perused.

Having seen the video recording (which is very clear), it is seen that the person in the video recording (is stated to be the deceased Afzal), has stated that the petitioner (Suraj Bhan) and others had got a false case registered against him (deceased) and others, and though he himself was willing to suffer, he would not let his family and friends suffer.

Learned counsel for the petitioner however submits that though no criminal case was ever registered at the instance of the petitioner against the deceased, which fact is not denied by learned counsel for the complainant, he (the latter) however submits that a criminal case had been registered against the companions of the deceased and therefore, the deceased, while he was taken to hospital, made a dying declaration to his brother that he was committing suicide because the petitioner and others had threatened that they would involve the deceased in other cases also.

Hence, on account of those threats he committed suicide.

Having considered matter, at this stage at least it is not seen from the video recording produced before this court that the deceased has said that the petitioner and others threatened him due to which he was committing suicide, though of course he has stated (in Punjabi) that “a false case has been registered against us.”

That being so, the petitioner is directed to join investigation and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 18.09.2020.

It is directed that, further, another status report be filed by a gazetted officer, as regards investigation carried out after the petitioner joins investigation.

Thus, for the purpose of this petition, only and specifically, considering the fact that the custodial interrogation of the petitioner is not required and he has been summoned by the trial court on an application filed under Section 319 Cr.P.C., it is considered appropriate that upon surrendering before the trial court, he be admitted to interim bail to the satisfaction of that court till the next date of hearing before this court.

Adjourned to 29.04.2022.

In the meanwhile, the respondent-State would file an affidavit of a gazetted officer in reply to the petition.

It is also made absolutely clear that admitting the petitioner to bail does not reflect the opinion of this court in any manner on his complicity in the commission of the offence or otherwise, which would be gone into by the trial court wholly on the basis of the evidence led before it.”

4. Learned State counsel, upon instructions from ASI Malkiat Singh has informed that pursuant to interim directions issued on 10.2.2022, the petitioner appeared before the trial Court and has been released on bail and that charges have also been framed by the trial Court.
5. Keeping in view the aforestated position wherein the petitioner has been summoned with the aid of Section 319 Cr.P.C. necessarily implying that investigation is complete and while also noticing that the petitioner has already put in appearance before the trial Court, there is no question of custodial interrogation of the petitioner at this stage. The petition, as such, is accepted and interim directions issued by this Court vide order dated 10.2.2022 are hereby made absolute subject to the condition that the petitioner shall regularly before the trial Court regularly and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C. Needless to mention, it shall be open to the trial Court to impose any other condition as deemed fit so as to ensure regular presence of petitioner.

29.4.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No