

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

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**CRM-M-11110-2022
Date of decision: 16.03.2022**

BASANT SINGH @ BABA BASANTA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. L.M. Gulati, Advocate
for the petitioner.

VINOD S. BHARDWAJ. J. (Oral)

1. The instant second petition has been filed under Section 438 Cr.P.C. for seeking concession of anticipatory bail in case FIR No. 243 dated 10.10.2021 under Section 302 read with Section 34 IPC (Section 306 IPC was added later on) registered at Police Station Gate Hakima, District Amritsar.

2. Learned counsel for the petitioner has vehemently argued that the facts in the instant case will not disclose making out of an offence under Section 302 IPC. It has been argued that even if the allegations are accepted as gospel truth for the sake of arguments and without conceding to the same, the incident is alleged to have taken place on 20.09.2021 when the husband of the petitioner had gone to the Dera. On 21.09.2021, when the husband returned back, he informed that he had been caused injuries by the petitioner along with other accused. He was thereupon admitted to Civil Hospital, Amritsar where from he was referred to Guru Nanak Dev Hospital on 29.09.2021. However, the injured was not taken to the Guru Nanak Dev

Hospital by the complainant and her son. He eventually succumbed to the injuries on 10.12.2021. Reference has been made to the post mortem report to contend that a perusal of the same would show that the injuries were on the underlying bones of tibia and fibula. Fracture and organized clots were found present adjoining the muscles on account of infiltration of blood and swelling. He argued that it is evident from the same that the injuries were on non-vital parts and that as per opinion of the Board of Doctors rendered after receipt of Histopathology examination, the cause of death in the case was multi organ failure as a result of Septicemia which was on account of delayed complications of injuries sustained.

3. Learned counsel further submits that in any case, the injuries not being on vital organ of the body, an offence under Section 302 would not be attracted and it would at best be an offence under Section 304. He further submits that custodial interrogation of the petitioner is not warranted in the instant case.

4. I have considered the arguments advanced by the learned counsel appearing on behalf of the petitioner. A perusal of the First Information Report clearly shows that the complainant was informed by the deceased on 21.09.2021 itself that he had been given beatings by the petitioner-Basant Singh @ Baba Basanta along with one Pinka son of Paramjeet Singh resulting in the injuries on legs and chest of the deceased. It is not a matter of dispute that the petitioner was under continuous treatment post sustaining the injuries. The complications that arose on account of delayed medical treatment or inability on the part of the complainant to provide for the best medical treatment, as may be available to any person of means, is only one of an aggravating cause. The proximity of injuries

sustained and the ultimate death of the deceased cannot be said to be remote. In so far as the question of offence that may be finally made out and as to whether it should be under Section 304 IPC or under Section 302 IPC, the same is a matter of investigation. It cannot be said that the custodial interrogation of the petitioner is not warranted. There is no reason to disbelieve the information given by the deceased to the complainant-his wife at the relevant point of time. The said information relates to the events which eventually led to his death and hence can be construed as dying declaration at this stage under Section 32 of the Evidence Act.

5. Considering the gravity of the offence as well as the nature of injuries sustained by the deceased, coupled with the deceased himself having specifically named the petitioner to have caused him injuries leading to his eventual death. I find that no grounds are made out for extending the concession of anticipatory bail to the petitioner, the same is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 16, 2022
Vishal sharma

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