

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

Criminal Misc. No.M-13479 of 2022(O&M)

Date of Decision: March 31, 2022

Ajaib Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Manjit Singh Uppal, Advocate for the petitioner.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 438 Cr.P.C for grant of pre-arrest bail in case FIR No.41 dated 03.07.2016 under Sections 302/148/149 IPC, Police Station Jaurkian, District Mansa.

The FIR was registered on the statement of Balwinder Singh @ Babna, who stated that he was a student of B.Sc. studying in the college at Talwandi Sabo. On 02.07.2016, one Kulwinder Singh @ Gallu friend of his brother Kulwinder Singh @ Babbu, rang up the complainant from his mobile No.99159-40705 and informed him that Kulwinder Singh @ Babbu (brother of the complainant) had fight with Ajaib Singh s/o Makhan Singh and called the complainant there. When the complainant was going from his home towards fields, he saw that Ajaib Singh, Kaka Singh, Varinder Singh, Mandeep Singh and Sharandeep Singh (petitioners) were giving beatings to his brother Kulwinder Singh @ Babbu with sticks. After seeing the complainant they went away in their white colour car and on motorcycle Splendor towards village. On seeing the complainant Kaka Singh, who was driving the car slowed it and told the complainant that his person was dead and he be taken away. He also abused the

complainant. Ajaib Singh, Varinder Singh were also sitting with Kaka Singh in the car. They were followed by a motorcycle, driven by Sharandeep Singh with Mandeep Singh sitting on pillion seat. They all were having sticks. It was about 7.00 PM. The complainant saw his brother lying with blood oozing from his ears. His brother's motorcycle was lying near him in a damaged condition. The complainant called his father Sukhdev Singh. They took his brother to their house. From there he was taken to Jindal Hospital, Talwandi Sabo, from where, he was taken to Civil Hospital, Talwandi Sabo, where he died. The complainant further stated that they were having a dispute with Ajaib Singh, etc. regarding water course.

The matter was investigated by the Police. The petitioners were declared innocent. The investigation revealed that the deceased died due to accident by slipping of motorcycle. Cancellation report dated 21.08.2016 under Section 173 Cr.P.C was filed before the Ld. Illaqa Magistrate. The complainant objected to the Cancellation Report and the Ld. Illaqa Magistrate ordered re-investigation.

Thereafter, a Special Investigation Team comprising DSP Sardulgarh, SHO Police Station Jaurkian and Inspector CIA Staff was constituted and the matter was re-investigated. After thorough investigation and on recording statements of about 23 witnesses including the statements of eye witnesses who were present at the spot, again the petitioners were found innocent. It was concluded that the deceased died due to accident by slipping of motorcycle. The Police again filed cancellation report dated 26.10.2017.

The complainant again filed his objections to the cancellation report dated 26.10.2017. Vide order dated 25.11.2021 the Ld.Illaqa Magistrate, Sardulgarh rejected the cancellation report dated 26.10.2017 and summoned the petitioners to stand the test of trial.

Hence, apprehending their arrest on appearance before the Ld.Ilaqa Magistrate, the petitioners are before this Court.

Ld. counsel for the petitioners has contended that the matter has been investigated twice by the Police. During the second investigation by the SIT, which included a DSP rank officer, statements of 23 witnesses was recorded and the petitioners were again found innocent by the Police. The incident is of the year 2016. Relying on the documents Annexures P-4 and P-5 (*ruqa* and hospital treatment charge), he argued that the injured Kulwinder Singh was first taken to Jindal Multi-speciality Hospital, Talwandi Sabo by his family members, from where a ruqa/intimation was sent to the Police informing that it was a case of road accident. First-aid was given and the injured was referred to Higher Hospital for further treatment, where he succumbed to the accidental injuries.

Considering the totality of facts and circumstances, particularly, that the petitioners have been found innocent by the Police in two separate investigations and there is nothing on record to suggest that the petitioners would abscond without commenting on merits of the matter, it is directed that the petitioners shall appear before the Ld.Ilaqa Magistrate/Trial Court on or before 30.04.2022, which shall admit them to bail.

Petition is disposed of accordingly.

March 31, 2022

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No