

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRM-M-24278 of 2021

Date of decision: 11.3.2022

Kuljinder Singh

... Petitioner

versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr. Yashpal Thakur, Advocate,
for the petitioner
Mr. Rana Harjasdeep Singh, DAG, Punjab
Mr. Vishal Sodhi, Advocate,
for the complainant
...

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.80, dated 2.8.2020, having been registered at Police Station Morinda, District Rupnagar, alleging therein the commission of offences punishable under Sections 302/201/34 of the IPC (with Section 120-B of the IPC and Sections 27/54/59 of the Arms Act, 1959, having been added later).

On 29.6.2021, the following order had been passed by this court:-

“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.80, dated 02.08.2020, having been registered at Police Station Morinda, District Rupnagar, alleging therein the commission of offences punishable under the provisions of

Sections 302, 201 and 34 of the IPC (with Section 120-B of the IPC and Sections 27/54/59 of the Arms Act, 1959, added later).

Learned counsel for the petitioner submits that the petitioner was never named as an accused even in the first disclosure statement allegedly made in police custody by persons primarily accused of the crime and it is only in the second alleged disclosure statement in police custody that the petitioner has been named as an accomplice who helped in disposal of the dead body.

He submits that as a matter of fact the petitioner on that day was busy in the bhog ceremony of his grandmother and in fact a video recording of the entire bhog ceremony is available with him and has been annexed as Annexure P-2 in the form of a Video Compact Disk.

Without making any comment on the actual merits of what has been contended hereinabove, notice of motion is issued, with Mr. Saurav Khurana, DAG, Punjab, accepting notice at the asking of the court on behalf of the respondent State.

A copy of the petition be supplied to him today itself by learned counsel for the petitioner.

The petitioner is directed to join investigation within 3 days and if, upon him so joining, he is sought to be arrested,

he shall be released on interim bail, upon his 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 the petitioner in investigation, in terms of the order of this Court.

Adjourned to 15.07.2021.

A gazetted officer is directed to file a reply to the petition before the next date of hearing giving therein the details of the investigation including what is contained in the VCD and the implications thereof.

It is again made absolutely clear that this court has not made any comment on the actual merits of the case and only on the basis of the fact that the petitioner allegedly was at a bhog ceremony which has been video recorded, that he has been granted interim bail at this stage.”

Thereafter on 17.9.2021, the following order had been passed:-

“Thereafter, an affidavit dated 14.07.2021 was filed by the DSP, Sri Chamkaur Sahib, from which learned State counsel points out that the petitioners' name was disclosed by

his brothers, Gurmail Singh alias Rordu and Rajwinder Singh alias Ratra, to the effect that the petitioner had also helped them and had wrapped the dead body of the deceased and put it in a Swift Desire Maruti car belonging to Gurmail Singh alias Rordu, with the trio having thrown the dead body in the Bhakhra canal in the area of village Panjokhra, near Morinda, and with the car of the deceased also having pushed into the canal by Gurmail Singh and Rajwinder Singh, at a different place.

The licensed revolver of Gurmail Singh, alongwith 6 live cartridges, the axe used by Rajwinder Singh, the goggles of the deceased, the ashes of the sheet made of plastic bags, and other material are also stated to have been recovered on the aforesaid disclosure statement; and thereafter sent to the Forensic Science Laboratory.

It has also been stated in the affidavit that as per the CCTV footage from the toll plaza, Lalru, Gurmail Singh and Rajwinder Singh were seen to have passed through that place in a Swift car; but that there was no person by the name of Bhapa (whose name has been given in the FIR by the complainant), found to be in any manner connected with the occurrence and that in fact no such person existed.

As regards the contention of learned counsel for the petitioner that the petitioner was attending his grandmothers'

bhog ceremony on the date in question (31.07.2021), the DSP has stated that the bhog ceremony finished at 3:15 pm, after which there was no one in the Gurdwara and as per investigation carried out, the petitioner was involved in the disposal of the dead body.

The DSP, Sri Chamkaur Sahib, is directed to file another affidavit, stating therein that as to whether the petitioner, at any point of time, was found to have also crossed the toll plaza, Lalru, from the direction in question as would show him to be involved in the commission of the offence of murder, as also the disposal of the dead body and the car.

Adjourned to 11.11.2021.

Interim order to continue till that date.

It is of course to be noticed that learned counsel for the complainant has submitted that the petitioners' name having been disclosed by his co-accused and a car and a revolver etc. thereafter recovered, such disclosure statement would have complete evidentiary value.

No comment in that regard is made by this court at this stage, but with the aforesaid direction to be complied, with by the DSP, to determine as to whether the petitioner deserves to be continued on interim bail or not.

CRM-30430-2021 would also be considered on that date. ”

Thereafter another affidavit, dated 10.11.2021, had been filed by the DSP, Sri Chamkaur Sahib, in which it is stated that as per the report obtained from the toll plaza at Lalru, it had been proved that the co-accused of the petitioner, i.e. Gurmail Singh @ Rodu and Rajinder Singh @ Ratna, had passed through the toll plaza to 'dispose of the mobile phones of the deceased in Maruti Swift car bearing no.CH-01-K-8200'.

As regards the petitioner, it has been stated by the DSP that though he had not being found to have crossed to the toll plaza, Lalru, however, with his aforesaid co-accused having killed the deceased, Kulbir Singh (as alleged), and thereafter they alongwith the petitioner having wrapped his body in plastic bags and having disposed it of in the Bhakra Canal using that particular car, after removing his clothes and shoes so as to try and make the deceased unidentifiable, the petitioner does not deserve to be admitted to anticipatory bail.

Learned counsel for the petitioner however submits that the investigation itself is faulty inasmuch as the complainant in the FIR had stated that when his brother (deceased) left the house, then a person by the name of Bhapa was accompanying him, after which his brother did not take calls of the family on his mobile phone and that they had come to know on 31.7.2020 that the present petitioners' brothers, Gurmail Singh @ Rodu and Rajinder Singh @ Ratna, had met the deceased, Kulbir Singh, and that he suspected that they had murdered him.

He submits that however with the DSP himself having stated earlier in his affidavit that no person by the name of Bhapa was found to be

involved and that being in fact a non-existent person, even the allegation against the petitioner as regards aiding his brothers in disposing of the body, is a wholly faulty investigation.

Learned State counsel however submits that the *challan* as regards the other two co-accused of the petitioner, i.e. his brothers, had already been submitted; but qua the petitioner, it has still not been submitted as his custodial interrogation is required to determine the complete chain of events and to further see the extent of his involvement.

In view of the above, with that also having been stated by the DSP in his affidavit last filed, I see no further ground to entertain this petition, simply looking at the gravity of offence, which is consequently dismissed, with the interim order dated 29.6.2021 vacated.

However, nothing stated in any orders passed in this petition would have any bearing on the merits of the case, which naturally would go as per the evidence gathered in investigation and led before the competent court, all orders having been passed in the context of only a petition filed under Section 438 of the Cr.P.C.

It is also to be observed that in case the petitioner is arrested and thereafter files any petition under the provisions of Section 439 of the Cr.P.C., that would be considered wholly on its own merits.

11.3.2022

pk

Whether speaking/reasoned

Whether Reportable

(AMOL RATTAN SINGH)
JUDGE

Yes/No

Yes/No