

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

CRM-M-29045-2022

Reserved on : November 14, 2022

Date of Pronouncement : November 15, 2022

Raghubir Singh @ Nikka

.....Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Navkiran Singh, Advocate for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

Mr. G.S. Kaura, Advocate and Ms. Sushma Chopra, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J.

This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.44 dated 15.4.2020, under Sections 304, 120-B, 34 IPC, registered at Police Station Lambran, District Jalandhar (Rural).

The new ground taken by counsel for the petitioner is that the custody of the petitioner is more than 02 years and 06 months and the statement of the complainant has been recorded.

While dismissing the earlier application on 18.3.2021, the following order was passed :-

"Brief facts of the case are that Jaswant
Kaur-complainant registered the aforesaid FIR with the

allegations that she is married to co-accused Taranjit Singh and is having two children from this wedlock. Taranjit Singh was having illicit relationship with Jaswinder Kaur, who is sister-in-law (husband's brother's wife). The husband of Jaswinder Kaur was residing abroad and the complainant used to have a fight with her husband Taranjit Singh regarding illicit relationship with his sister-in-law.

It is further submitted that, later on, the complainant came to know that her husband is also having illicit relationship with one lady, namely, Paramjit Kaur @ Pammo and despite objection raised by the complainant, Taranjit Singh did not mend his ways. When the complainant told the entire incident to her parents, a Panchayat was convened on 15.4.2020 when a number of respectable persons, including deceased Nirmal Singh (father of the complainant) and other family members came to her matrimonial home. The family members tried to make Taranjit Singh understand not to have illicit relationship with other ladies but he was adamant to have relationship with his sister-in-law Jaswinder Kaur. In the meantime, Taranjit Singh made a phone call to other persons to come at the spot and the petitioner Raghubir Singh @ Nikka came there on the motorcycle. Thereafter, petitioner-Raghubir Singh @ Nikka caught hold of both arms of Nirmal Singh (father of the complainant) and her husband Taranjit Singh started giving fist blows on the chest and forehead of Nirmal Singh. Due to which, Nirmal Singh fell down on the ground and became unconscious. He was taken to the Civil Hospital for medical treatment, however, he was declared "brought dead". The cause of the death, as per the postmortem

report is as under :-

“In my opinion the cause of death in this case is due to Intracranial Hemorrhage resulting from subdural and subarachnoid hemorrhage, which is sufficient to cause death in ordinary course of nature.”

Counsel for the petitioner submits that the petitioner, who is not related to the complainant or her husband, had gone to the place of occurrence to attend the Panchayat and has been falsely implicated.

In reply, learned State counsel, assisted by counsel for the complainant, has opposed the prayer on the ground that the involvement of the petitioner and his presence at the spot is not disputed.

Counsel for the complainant submits that there are direct allegations against the petitioner that he has caught hold Nirmal Singh, whereas co-accused Taranjit Singh caused injuries which resulted into death of Nirmal Singh.

Counsel for the complainant has additionally argued that her in-laws and the parents of Taranjit Singh have also registered an FIR against the complainant under Sections 323/325 IPC to put pressure on her and, therefore, the accused side is using their influence and the statement of the complainant is yet to be recorded in the Court.

After hearing counsel for the parties and considering the serious allegations, I find no ground to grant the concession of regular bail to the petitioner.

Dismissed.”

Counsel for the petitioner has argued that the charges have been framed under Section 304 Part II IPC, which provides maximum punishment of sentence of 10 years and the allegations against the petitioner are that he was called by the co-accused Taranjit Singh @ Tanna and in the presence of the Panchayat, he caught hold of both arms of Nirmal Singh, father of the complainant from behind and, thereafter, husband of the complainant Taranjit Singh gave fist blows on chest and forehead of Nirmal Singh, due to which he fell down and became unconscious.

The complainant and others saved Nirmal Singh from the clutches of Raghubir Singh @ Nikka and Taranjit Singh @ Tanna and thereafter, the petitioner and Taranjit Singh @ Tanna fled away from the spot. Taranjit Singh @ Tanna was taken to the hospital, where he died. Later on, the petitioner and Taranajit Singh @ Tanna were arrested.

Counsel for the petitioner has submitted that now the statement of Jaswant Kaur has been recorded and, therefore, there is no possibility of tampering with the prosecution evidence. Counsel for the petitioner has further submitted that the custody of the petitioner is more than 02 years and 06 months and, therefore, he should be released on bail.

Learned State counsel, with the assistant of counsel for the complainant, has, however, opposed the prayer.

As per the affidavit of the Investigating Officer, the averments made in the FIR are reiterated. It is stated in the affidavit that the specific role of petitioner Raghubir Singh @ Nikka in the above said FIR is that the husband of complainant Jaswant Kaur, namely, Taranjit Singh @ Tanna was having illicit relations with the above-said co-accused Paramjit Kaur @ Pammo and Jaswinder Kaur. The complainant Jaswant Kaur used to stop her husband Taranjit Singh @ Tanna from making communication with the above-said Paramjit Kaur @

Pammo and Jaswinder Kaur, however, the husband of the complainant i.e. Taranjit Singh @ Tanna did not adhere to the complainant. On 15.4.2020, the father of the complainant, namely Nirmal Singh along with other family members and relatives of complainant, Jaswant Kaur, came to the matrimonial home of the complainant which is located at village Nijjran. The family members and Panchayat members tried to convince the husband of the complainant, namely, Taranjit Singh @ Tanna to reside with the complainant, however, he was adamant to live with his sister-in-law (Bhabhi) at Jalandhar. When all the Panchayat members and other respectable persons were leaving from the main gate of the house, then petitioner Raghubir Singh @ Nikka came there on his motorcycle bearing No.PB-08-BJ-0680. Upon reaching there, petitioner Raghubir Singh immediately caught hold of both the arms of the father of the complainant, namely, Nirmal Singh from backside and Taranjit Singh @ Tanna started giving fist blows on the chest and forehead of the father of the complainant. Due to said attack, the above-said Nirmal Singh fell down on the ground and became unconscious. Upon seeing that, the above said Nirmal Singh was lying unconscious on the ground, the petitioner Raghubir Singh @ Nikka and co-accused Taranjit Singh @ Tanna fled away from the spot. The complainant brought her father Nirmal Singh to the Hospital and the doctor declared him dead. It is pertinent to mention here that the motorcycle bearing No. PB-08-BJ-0680 used by the petitioner in the commission of above-said offences has been recovered by the police as per the disclosures made by him.

Learned counsel for the complainant has additionally argued that as per the statement of PW1 Jaswant Kaur, the complainant, she has fully supported the prosecution version in which she has specifically stated that on the phone call given by her husband Taranjit Singh @ Tanna, petitioner-Raghubir Singh @ Nikka reached at the matrimonial home of the complainant and on reaching there, Taranjit Singh @ Tanna

and Raghubir Singh @ Nikka caught hold of her father and started giving fist blows on the chest and forehead of her father, who died later on. It is also submitted that during the cross-examination also, her testimony could not be shattered.

After hearing learned counsel for the parties and considering the fact that the case is still at the stage of recording of the prosecution evidence. On the mere fact, the petitioner has undergone custody of more than 02 years and 06 months is not a ground to grant the regular bail when the complainant has duly supported the prosecution version.

Resultantly, the present petition stands dismissed.

November 15, 2022
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO