

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

CRM-M-30359-2022 (O&M)
Date of Decision:- 8.9.2022

Bant Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Pushpinder Kaushal, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Sikander Singh.

GURVINDER SINGH GILL, J.

1. The petitioner who has been summoned with the aid of Section 319 Cr.P.C. seeks grant of anticipatory bail in a case registered against him vide FIR No. 50 dated 8.5.2020 under Sections 302, 148, 149 IPC at Police Station Sadar, District Faridkot.
2. The FIR in question was lodged at the instance of Paramjit Kaur wherein it is alleged that her husband had already expired and she has two sons and two daughters. While both of her daughters are married but both of her sons are unmarried. Her son Sukhdev Singh is a drunkard whereas the other son Gurbhej Singh is a simpleton. The complainant stated that she usually resides with her daughter Veerpal Kaur. However, on the day of occurrence i.e. on 7.5.2020, she had come back to her village Dhuddi. Her son Sukhdev Singh was roaming in the street in inebriated condition. She took him inside the house. At about 7:30 p.m. in the evening, her son Sukhdev Singh went

out in the street again and started saying something to his neighbour Jagjit Singh. In the meanwhile, Bant Singh armed with a spade (*kassia*); Gurjant Singh carrying a 'baseball bat'; Nirmal Singh carrying a 'baseball bat' alongwith Jagjit Singh and Billa, who were both empty handed came to the spot. Jagjit Singh raised a '*lalkara*' exhorting his companions to teach Sukhdev Singh a lesson. It is alleged that Bant Singh gave a blow to Sukhdev Singh with '*kassia*' (spade) hitting him on right side of his head, as a result of which Sukhdev Singh fell on the ground. While Sukhdev Singh was lying on the ground, Bant Singh gave another blow with '*kassia*' (spade) on left side of his head. Thereafter, Gurjant Singh gave a blow with 'baseball bat' on face of Sukhdev Singh. Gurjant Singh gave another blow on left shoulder of Sukhdev Singh. Nirmal Singh is also stated to have given a blow with 'baseball bat' on the right side of abdomen of Sukhdev Singh. Bant Singh, thereafter, gave another blow with '*kassia*' (spade) on ankle of left foot of Sukhdev Singh. When the complainant move forward to rescue her son then Jagjit Singh pushed her and she fell down. When Sukhdev Singh tried to get up, Bant Singh gave another blow with '*kassia*' (spade) on his right ankle. The complainant raised alarm and upon which few persons were attracted to the spot and the accused ran away alongwith their weapons. Though, Sukhdev Singh was taken to hospital but he had already died. While the aforesaid occurrence is stated to have taken place around 7:30 p.m. on 7.5.2020, the police received a message regarding the said death from the hospital in the morning of 8.5.2020 and it was thereafter that the police party went to the hospital at Faridkot and while on the way, met complainant Paramjit Kaur, who got her aforesaid statement recorded.

3. The matter was investigated by the police and a challan was presented against Jagjit Singh, Nirmal Singh, Baljit Singh, Gurjant Singh and one Jaswinder Singh. However, petitioner Bant Singh was found innocent and was kept in column no. 2.
4. Charges were framed against the five accused, who had been challaned. After framing of charges, the prosecution examined the complainant Paramjit Kaur who reiterated the version as recorded in the FIR as regards causing of injury by the accused including Bant Singh. She specifically stated that Bant Singh had inflicted injuries with the help of '*kassia*' (spade) to Sukhdev Singh. She narrated the attribution of injuries as per the narration made by her in the FIR. The prosecution, thereafter, moved an application under Section 319 Cr.P.C. for summoning Bant Singh which was accepted by the trial Court and Bant Singh was ordered to be summoned to face trial alongwith the remaining accused vide order dated 31.5.2022 (Annexure P-6).
5. The learned counsel for the petitioner has submitted that the police, upon conducting investigation thoroughly had found the petitioner innocent and that there is no evidence at all to connect him with the alleged occurrence. It has been submitted that the police had recorded statements of several witnesses on the basis of which he has been declared innocent. The learned counsel has further submitted that in any case, no useful purpose would be served by sending the petitioner behind bars at this stage when no further investigation is required to be conducted. It has further been submitted that since co-accused namely Jagjit Singh, Nirmal Singh and Gurjant Singh have

already been granted regular bail by this Court, the petitioner also deserves the same concession.

6. The learned State counsel has, however, submitted that having regard to the fact that the petitioner is specifically named in the FIR and specific role of having inflicted injuries to the deceased with the help of '*kassia*' (spade) has been attributed to him, which has been duly reiterated by the complainant in her statement before Court, no case for grant of anticipatory bail is made out.
7. This Court has considered the rival submissions.
8. This Court finds that while the occurrence had taken place in the evening on 7.5.2020 at about 7:30 p.m., and thereafter, the deceased was taken to hospital where he was declared dead, it was in the morning at about 5:30 a.m. that information was received in the Police station regarding death of Sukhdev Singh and thereafter, the FIR came to be recorded at 6:55 a.m. on the basis of statement of mother of deceased. It cannot be said that there is inordinate delay in lodging the FIR so as to infer that the FIR is a result of concoctions. The complainant Paramjit Kaur as well as accused Bant Singh and his three sons Gurjant Singh, Nirmal Singh, Jagjit Singh are residents of the same village. In these circumstances, it cannot be said that the complainant could not have identified the accused. The fact that the complainant while categorically naming all the accused has stated that Bant Singh was carrying a sharp edged weapon i.e. a '*kappa*' (sickle) whereas two other accused are stated to be carrying 'baseball bat' and two empty handed and also the fact that a large number of injuries i.e. 22 injuries were found on the body of the deceased would leave no room for declaring Bant Singh innocent, particularly when medical evidence is in time with ocular

version. The police, for reasons best known, has not chosen to conduct any scientific investigation in the shape of collecting call details record and is banking upon oral testimonies of witnesses other than complainant's witnesses. A perusal of the FIR and also the statement of Paramjit Kaur recorded in the Court would show that she has stated consistently and the same reflect that it is Bant Singh, who only was armed with a lethal weapon and who is the one who had inflicted the maximum number of blows including injuries on his head, which proved fatal.

9. Though, this Court is well aware that once challan is presented, there would hardly be any occasion for conducting any further investigation so as to justify custodial interrogation but having regard to the manner in which the petitioner has gone about inflicting a large number of injuries with a '*kassia*' (spade) would reflect on his desperate criminal tendencies. The complainant is a widow and out of her two sons, one has already been murdered and the other is stated to be a simpleton. In these circumstances, there is every chance that the petitioner, in case granted bail, would try to intimidate the complainant so as to pressurize her to depose in his favour.
10. Having regard to the aforesaid facts and circumstances, the following directions are issued :-
 - (i) in case the petitioner surrenders before the trial Court within one week from today, the trial Court shall proceed immediately to consider the framing of charges. If the matter has been fixed to a longer date, the same be preponed to a shorter date so that the trial Court is able to consider the question as regards framing of charges

against the petitioner expeditiously, preferably within 10 days from his surrender;

(ii) In case the trial Court chooses to frame charges against the petitioner, then efforts be made to get the statement of complainant Paramjit Kaur recorded in the first instance, preferably within 10 days from framing of charges against the petitioner and others. Needless to mention, if trial Court finds no ground to frame charges against petitioner, he shall be set free forthwith;

(iii) As and when the statement of Paramjit Kaur is recorded, the petitioner Bant Singh shall be released on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

11. The aforesaid directions as well as any observations made above shall, however, be without prejudice to the right of petitioner to pursue any other petition so as to challenge the proceedings pending against him including any petition challenging order passed under Section 319 Cr.P.C. vide which he has been ordered to be summoned. The trial Court shall also not be influenced by any observation made in this order.

12. The petition stands disposed off accordingly.

8.9.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No