

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34014-2022
Date of decision : 03.08.2022

Sunil @ Soni

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Balraj Singh Dhull, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first application under Section 438 Cr.P.C. for granting anticipatory bail to the petitioner in FIR no.282 dated 09.10.2021 registered under Sections 148, 149, 323, 506, 427 IPC (Section 304 IPC added later on) at Police Station Kalayat, District Kaithal.

Learned counsel for the petitioner has submitted that in the present case the FIR has been registered after a delay of one day inasmuch as the incident allegedly took place on 8.10.2021 at 9:00 PM and the FIR has been registered on 09.10.2021 and the deceased was examined on 09.10.2021. It is highlighted that the injury, which has been suffered by the deceased, was not grievous in nature and as per the medical / summary (Annexure P-3), has been declared to be simple. It is further submitted that even as per the opinion of the Medical Board (Annexure P-6), the cause of death was stated to be natural cause and thus, the petitioner is entitled to

anticipatory bail. It is also stated that the petitioner had not inflicted any injury upon the deceased, and the allegation levelled against the petitioner was that the petitioner had caught hold of the neck of the deceased.

Learned State counsel, on the other hand, has opposed the present application for anticipatory bail and has submitted that in the present case the incident had taken place on 08.10.2021 at about 9:00 in the evening and a perusal of the MLR (Annexure P-2) would show that the examination of the deceased was conducted at 12:58 AM on 09.10.2021. It is also submitted that in the present case, the petitioner, along with other co-accused, had attacked the deceased and had caused injuries to him and the deceased had suffered 4 injuries as is apparent from the MLR and as per the final opinion regarding cause of death given on 17.05.2022 by the Board of Doctors, it had been observed that on account of strangulation, the disease present in the deceased could have been accelerated. It is further submitted that it has been stated in paragraph 6 of the order dated 30.07.2022 passed by the Additional Sessions Judge, Kaithal rejecting bail application of the petitioner that the petitioner is involved in another FIR no.299 dated 27.10.2021 and the said fact has not been controverted in the petition filed by the present petitioner.

This Court has heard learned counsel for the parties and has perused the paper book.

A perusal of the FIR would show that the same has been registered on the statement of Krishan, who had stated that on 08.10.2021 at about 9:00 PM, the present petitioner, along with other persons, after having reached outside the house of the complainant with deadly weapons, i.e. *lathi, gandasi, jelwa* in their hands, started shouting outside the house of the

complainant and hurled abuses at him and when the complainant asked the reason for their shouting, they start physically assaulted the complainant and asked the complainant as to where his son Vikram was and said that they wanted to kill him and when the complainant tried to stop them, the petitioner held the neck of the complainant and all the persons tried to break open the doors of the house of the complainant with their hands and *lathis* and one of the co-accused had got a bolero car and tried to run the complainant over with the bolero car and ran its front tyre over his left foot and he fell down and on account of the same, the complainant suffered injuries and thereafter, when the complainant cried for help, the petitioner, along with other accused, ran away with their weapons and the complainant had stated that he also suspected that they were also carrying illegal fire arms. After the said incident, the complainant (deceased) was admitted in the Civil Hospital, Kaithal at night and his medical examination was conducted at 12:58 AM and there were 4 injuries reported on the person of the complainant. A perusal of the medical summary (Annexure P-3) dated 22.02.2022 would show that there was a strangulation mark present at the anterior aspect of the deceased's neck. The relevant portion of said medical summary dated 22.02.2022 is reproduced hereinbelow:-

<i>Injuries sustained</i>	<i>A/H/O Strangulation</i> <i>O/E: At the time of presentation: Patient</i> <i>conscious, oriented. Laryngeal contour:</i> <i>Normal; Laryngeal crepitus: Absent</i> <i>Strangulation mark present at anterior</i> <i>aspect of neck at the level of thyroid</i> <i>cartilage along with diffiuse swelling. No</i> <i>stridor. Voice-Normal.</i>
xxx xxx	
<i>Complications</i>	<i>Respiratory distress, ? Pulmonary embolism,</i> <i>cardio vascular and neurological collapse.”</i>

A perusal of the opinion of Medical Board dated 17.05.2022, would show that it had been stated therein that strangulation mark reported by the examining ENT doctor which was supported by the possible injuries seen on NCCT, corroborated along with circumstantial evidence proved the alleged history of strangulation and thus, could have accelerated the disease present in the victim. The relevant portion of the Medical Board report dated 17.05.2022 (Annexure P-6) is reproduced hereinbelow:-

“Based upon the above findings, board is of the opinion that the cause of death is same as given by doctor “Fibrinopurulent pericarditis complicated with focal acute myocarditis and lobar pneumonia, a natural cause”. However, strangulation mark as reported by examining ENT doctor which is supported by the possible injuries seen on NCCT and if further proved by corroboration with circumstantial evidence proves alleged history of strangulation and thus could have accelerated the disease present in the victim.

*Dr.Amandeep Singh
Professor
GMCH Chandigarh*

*Dr.Mohit Chauhan
Asstt. Prof.
GMCH Chandigarh”*

The above said facts would show that the petitioner, along with other persons had attacked the complainant and in the process, the complainant had suffered 4 injuries and it prima-facie appears that on account of the petitioner having held the neck of the complainant, the underlying disease had got accelerated and thereafter, the deceased had died. The above said aspects would be considered finally during the course of the trial but considering the above said acts, moreso, the act of the petitioner, along with the other persons who attacked the complainant, as has been detailed in the FIR, does not entitle the petitioner to grant of anticipatory bail. With respect to the arguments that there is a delay in the

PM on 08.10.2021 and the deceased was taken to the hospital on the same night and was examined at 12:58 AM on 09.10.2021 and after the said medical examination, and after the doctor had declared him fit to make a statement, the present FIR was registered at 2:20 PM on 09.10.2021.

Keeping in view the above said facts and circumstances, this Court is of the opinion that the petitioner does not deserve the concession of anticipatory bail and the same is thus, dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

August 03, 2022
Davinder Kumar

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