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

**CRM-M-42017-2022**

**Date of Decision: 21.9.2022**

Gurdev Singh & others

...Petitioners

Versus

State of Punjab

...Respondents

**CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr.RK Singla, Advocate for the petitioners

Mr.G.S.Sandhu, DAG, Punjab

Mr.Gurwinder Singh, Advocate for the complainant

**ASHOK KUMAR VERMA, J.**

Notice of motion.

On the asking of this Court, Mr.G.S.Sandhu, DAG, Punjab accepts notice on behalf of the State. Mr.Gurwinder Singh, Advocate appears on behalf of the complainant.

Through this petition under Section 438 Cr.P.C. prayer has been made for grant of anticipatory bail to the petitioners in case FIR No.0093 dated 9.6.2020 under Sections 323, 324, 120-B, 149 of the IPC (offence under Section 304 of the IPC added later on and Section 302 of the IPC was added later on at the time of framing of charge against co-accused Gagandeep Singh, registered at Police Station Longowal District Sangrur.

Brief facts as culled out from the paper-book are that the

aforesaid FIR was registered on the statement of Jaswant Singh with

the allegations that on 08.06.2020, accused Gagandeep Singh along with others started demolishing the 'Wat' of the field, where the complainant was already working along with Jarnail Singh and Jeet Singh @ Jeeta. When the complainant saw the accused persons demolishing the 'Wat', then the complainant went near them in order to restrain them. The brother of the complainant also came there from the house as their house is situated nearby the fields. Complainant party stopped the accused party from demolishing the 'Wat'. Thereafter, the accused went to their respective homes. The brother of the complainant namely Beant Singh went to Longowal for taking domestic goods and the complainant remained in the fields for doing work with the labourers. At about 2:45 PM, Gagandeep Singh, Harjit Singh and Gurdev Singh came there on a tractor, which was fitted with ploughs. The tractor was being driven by Gagandeep Singh. Harjit Singh and Gurdev Singh were sitting on the sides. Gagandeep Singh brought the tractor near to the complainant and rotated the same on the side of the complainant. Complainant tried to save himself, but a plough pierced into his right thigh. Gagandeep Singh kept on driving the tractor and took two rounds of the field. The complainant fell down in the field and the plough came out of his thigh with flesh. When the complainant was lying in the field, Gagandeep Singh lifted the ploughs up and again put the same on the complainant and plough hit on the left foot of the complainant. Gagandeep Singh again lifted up the ploughs, which hit on the head of the complainant. On hearing the alarm, the assailants fled away from the spot, leaving the tractor in the

field. The brother of the complainant got him admitted in the hospital for treatment. With these allegations, the FIR came to be registered.

Initially, the FIR was registered under Sections 323, 324, 120-B and 149 of the IPC against Gagandeep Singh and the petitioners. As per MLR (Annexure P-2) conducted on Jaswant Singh, the doctor described the general condition of the patient as “Conscious, cooperative, oriented to time, place and persons vital stable. Injuries No.1, 2 and 5 were declared to be simple and blunt whereas injuries No.3 and 4 were declared to be sharp. Jaswant Singh was referred from Civil Hospital Sangrur and was admitted at Amar Hospital, Patiala where he was discharged on 17.6.2020. Complainant party brought back Jaswant Singh at home and they used to get dressing done daily by calling village doctor and used to get the dressing done every week from Amar Hospital, Patiala. On 10.7.2020, Jaswant Singh had severe pain in the chest and when he was taken to the Hospital at Sangrur, he died on the way and on the statement of brother of the deceased, offence under Section 302, 120-B, 149 of the IPC was added.

After registration of the FIR and addition of Sections 302, 120-B of the IPC, on 14.8.2020 petitioners no.3 and 4 alongwith others moved an application to the Inspector General of Police, Patiala range, Patiala for conducting investigation properly. The said application was marked for investigation/inquiry to Superintendent of Police (Detective), Barnala who in his inquiry report dated 30.9.2020 (Annexure P-5) found all the petitioners to be innocent and offence

under Section 302 was recommended to be deleted. It was also recommended that challan under Section 304 of the IPC should be presented in Court only against Gagandeep Singh.

Learned counsel for the petitioners by referring all the aforesaid facts submits that on 5.10.2020, police of PS Longowal sought opinion of the doctor, Civil Hospital Sangrur with regard to nature of injuries. The Medical Officer, Civil Hospital Sangrur vide its report dated 1.10.2020 declared injuries no.1 to 5 to be simple in nature. On 11.11.2020, police of P.S. Longowal sought opinion from Medical Officer, Civil Hospital Sangrur with regard to cause of death and the Board of Doctors in their opinion dated 25.11.2020 wrote that cause of death is 'Asphyxia' due to Aspiration which is sufficient to cause death in ordinary course of nature and is ante mortem in nature.

The police presented the challan only against Gagandeep Singh under Section 304 of the IPC and thereafter vide order dated 19.2.2021, charge under Section 302 of the IPC was ordered to be framed against Gagandeep Singh. Against the said order, Gagandeep Singh preferred CRR No.438 of 2021 which is pending adjudication on 11.1.2023 before this Court. However, trial proceeded in which Beant Singh appeared as PW1 and after his examination-in-chief, he moved application under Section 319 of the Cr.P.C. for summoning the petitioners as additional accused to face trial which was allowed by the trial court vide its order dated 19.8.2021. Against the said order of the trial court, the petitioners filed CRR No.972 of 2021 before this Court and also filed CRM-M-37521-2021 for grant of anticipatory bail to

them. Both the petitions were disposed of by this Court vide its detailed common order dated 11.10.2021 (Annexure P-9) whereby order dated 19.8.2021 passed by the trial court was set aside and he was directed to pass fresh order in accordance with law whereas anticipatory bail application was rendered infructuous. Even SLP filed by brother of the deceased against the aforesaid order has been dismissed by the Supreme Court on 1.4.2022 (Annexure P-10). Learned counsel for the petitioners further submits that co-accused-Gagandeep Singh has been granted regular bail by this Court vide order dated 23.2.2021 passed in CRM-M-879-2021.

Learned counsel for the petitioners vehemently submits that the trial court vide its order dated 11.7.2022 again summoned the petitioners as additional accused to face trial under Section 302 of the IPC wrongly and against the said order the petitioners filed CRR No.1575-2022 which is pending adjudication before this Court for 16.11.2022. Learned counsel for the petitioners further submits that the petitioners are already ready and willing to join the proceedings and no case for custodial interrogation is made out. Learned counsel places reliance on the judgment of **Gurbaksh Singh Sibbia etc. vs. The State of Punjab, 1980 AIR (SC) 1632.**

*Per contra* learned State counsel assisted by learned counsel for the complainant, while opposing the prayer for grant of anticipatory bail to the petitioners, submits that specific role has been attributed to the petitioners. They have been summoned to face trial under Section 302 and 120-B of the IPC by the trial court vide its order dated 11.7.2022. The petitioners have committed heinous crime.

I have heard learned counsel for the parties and perused the paper-book.

Indisputably, as noticed above, the Superintendent of Police (Detective), Barnala in his inquiry report dated 30.9.2020 (Annexure P-5) found all the petitioners to be innocent and offence under Section 302 was recommended to be deleted. It was also recommended that challan under Section 304 of the IPC should be presented in Court only against Gagandeep Singh who has already been granted bail by this Court vide order dated 23.2.2021 passed in CRM-M-879-2021. The said concession of bail was also extended to him under Section 302 of the IPC vide order dated 16.3.2021 passed by this Court in CRM-M-7419-2021. It is also not disputed that the police presented the challan only against Gagandeep Singh under Section 304 of the IPC and thereafter vide order dated 19.2.2021, charge under Section 302 of the IPC was ordered to be framed against Gagandeep Singh. Against the said order, Gagandeep Singh preferred CRR No.438 of 2021 which is pending adjudication on 11.1.2023 before this Court. However, trial proceeded in which Beant Singh appeared as PW1 and after his examination-in-chief, he moved application under Section 319 of the Cr.P.C. for summoning the petitioners as additional accused to face trial which was allowed by the trial court vide its order dated 19.8.2021. Against the said order of the trial court, the petitioners filed CRR No.972 of 2021 before this Court and also filed CRM-M-37521-2021 for grant of anticipatory bail to them. Both the petitions were disposed of by this Court vide its detailed common order dated 11.10.2021 (Annexure P-9) whereby order dated 19.8.2021 passed by the trial court was set aside and he was directed to pass fresh order in accordance with law whereas anticipatory bail application was rendered infructuous. Even SLP filed by brother of the

deceased against the aforesaid order has been dismissed by the Supreme Court on 1.4.2022 (Annexure P-10). The trial court vide its order dated 11.7.2022 has again summoned the petitioners as additional accused to face the trial under Sections 302 and 120-B of the IPC and against the said order, the petitioners have already filed criminal revision i.e. CRR No.1575-2022 in which notice of motion has been issued, and is pending adjudication before a co-ordinate Bench of this Court for 16.11.2022. In this view of the matter, I deem it a fit case to extend the concession of anticipatory bail to the petitioners.

In view of the above, this petition is allowed. It is ordered that the petitioners will surrender before the trial court within a period of 15 days from today and in the event of their surrender/appearance before the trial court, the petitioners shall be admitted to bail on their furnishing bail bonds and surety bonds to the satisfaction of trial court. The petitioners shall also abide by the conditions as specified under Section 438(2) Cr.P.C. However, it is made clear that in case the petitioners do not surrender before the trial court within the stipulated period, this petition shall be deemed to have been dismissed.

**(ASHOK KUMAR VERMA)**  
**JUDGE**

**21.9.2022**  
**MFK**

*Whether speaking/reasoned* *Yes*

*Whether Reportable* *Yes*