

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48810-2021 (O & M)

Date of decision:02.05.2022

Harpreet Singh @ Happy and anr.

..... Petitioners

V/s

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Baltej Singh Sidhu, Sr. Advocate,
assist by Mr. Inderpal Singh, Advocate,
and Mr. Chandan Singh, Advocate, for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition is for the grant of regular bail under Section 439 Cr.P.C. in a case bearing FIR No.52 dated 22.04.2021 under Sections 302, 201, 34 IPC and Section 25, 27, 30 of the Arms Act, 1959 registered at Police Station Bullowal, District Hoshiarpur.

The FIR, in this case, was registered at the instance of Rashpal Singh, who stated that he had two children i.e. a daughter-Preet Saini and a son-Pawandeep Singh. He stated that his son Pawandeep Singh had entered into a love marriage with Manpreet Kaur (deceased) and two children were born from this wedlock. After some time of the marriage, the relationship between the son-Pawandeep and a daughter-in-law-Manpreet Kaur soured and they started living separately. In the year 2013-14, his son-Pawandeep

relationship between the couple were estranged. Finally, Manpreet Kaur entered into a panchayati divorce and the two children were handed over to him by the Panchayat. It is alleged that on that day i.e. 22.04.2021, he received information that his daughter-in-law Manpreet Kaur had been murdered by some unknown persons and legal action should be taken.

During investigation, the complainant made a supplementary statement 14 days after the registration of the FIR that due to the inter-caste marriage of Manpreet Kaur (since deceased) with his son-Pawandeep Singh, the family members of Manpreet Kaur were keeping a grudge against her and the petitioners have committed the murder of the deceased-Manpreet Kaur in connivance with other persons. On this basis, the petitioners were nominated as accused and were arrested on 07.05.2021.

An extra judicial confession is said to have been made by the accused before one Ajinder Singh, former Sarpanch of village Khadiala Sainian. The recovery of the licensed revolver had also been made from petitioner No.1. So far as petitioner no.2 is concerned, the weapon allegedly used by him is said to have been thrown in the river.

The learned counsel for the petitioners *inter alia* contends that three material witnesses, in the case, namely Rashpal Singh-complainant/PW-1, Ajinder Singh-PW-2 the witness of the extra judicial confession and Joga Singh-PW-3, alleged eye-witness to the arguments between the accused and the deceased on the day of the occurrence, have been examined and their statements were attached with the petition as Annexures P-2 to P-4 and none of them have supported the prosecution case.

It is also contended that the FSL report, which has now been made available

by the learned counsel for the State, would also clearly show that the weapon recovered from the petitioner No.1 is not connected to any bullet/deformed bullet recovered as per the report of the FSL and, thus, there was absolutely no evidence available on the file to connect the petitioners with the commission of the offence. He also contends that a complaint was made by the deceased against one Constable-Sagarpreet Singh, who also could have had a motive and the police in order to help the said Constable have made the petitioners scapegoats in a concocted story.

The learned counsel for the State refers to the status report dated 29.01.2022 to contend that there was sufficient evidence available against the petitioners and the disclosure statement of the petitioners clearly demonstrates the fact that they have committed the offence in question. A mobile phone of the deceased and the weapon of petitioner No.2 have been thrown into the river and despite best efforts, divers could not find the same. He, however, admitted that there were 37 prosecution witnesses in the case and the three relevant witnesses did not support the prosecution version. He also admitted the fact that as per the ballistic report from the FSL, Punjab, the weapon recovered from the petitioner No.1 i.e. 32 bore revolver (W-1) could not be connected to any bullet/deformed bullet.

I have heard the learned counsel for both the parties at length.

Admittedly, the three main prosecution witnesses have been examined and have not supported the case of the prosecution and, thus, declared hostile. The Hon'ble Supreme Court in ***“Dr. Gokarakonda Naga Saibaba versus State of Maharashtra, 2016(2) RCR (Criminal) 675*** and

of Punjab, CRM-M-27957-2015 decided on 22.08.2016, has held that grant of bail can be considered, where witnesses stand examined.

The report of the FSL, which has been placed on record dated 28.02.2022 does not further the case of the prosecution so far as the petitioners are concerned. They are in custody since May, 2021 and as many as 37 prosecution witnesses were to be examined, out of which, three main prosecution witnesses have turned hostile and in total only 08 witnesses have been examined by the prosecution thus far. It would be a matter of adjudication during trial as to whether the other evidence available is sufficient to affix the guilt of the petitioners.

Keeping in view the aforementioned facts, apparently, the trial of the case is not likely to be concluded in the near future. The main prosecution witnesses already stand examined and, as such, there is no threat of the petitioners pressurizing any remaining witnesses.

Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioners, namely, Harpreet Singh @ Happy and Iqbal Singh are ordered to be released on bail subject to their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

(JASJIT SINGH BEDI)
JUDGE

May 02, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No