

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9877 of 2023

Date of Decision: 22.08.2023

Sewak Singh alias Sahu alias Gursewak SinghAppellants

Vs.

State of Punjab and othersRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. A.S. Dhindsa, Advocate for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

Mr. G.P.S. Ghuman, Advocate for respondents No.2 and 3.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 Cr.P.C., petitioner has prayed for grant of anticipatory bail in case FIR No.56 dated 02.05.2016 registered under Sections 302, 201 and 120-B IPC at Police Station Sadar Samana, District Patiala, in which he has been summoned by the Court on an application under Section 319 Cr.P.C.

2. As it emerges on perusal of the paper book that retired Inspector Hazur Singh and his son Gurpreet Singh left their home at Patiala on 19.04.2016 at about 11:30 A.M for going to Samana in their Scorpio Vehicle No.PB-11-BD-6622, regarding some land deal. They did not return. On the complaint of Smt. Sukhjit Kaur, the wife of Hazur Singh, a missing report was lodged. On 20.04.2016, information was received about falling of a vehicle in Bhakhra Canal Bridge Jora Majra on 19.04.2016. With the help of administration, divers were arranged and the vehicle of Hazur Singh was retrieved. The vehicle contained the dead body of Gurpreet Singh. Left door of the vehicle was open. The vehicle was in fifth gear and its hand

brake lever was pulled. On 22.04.2016, dead body of Hazur Singh was also recovered from Village Bhudarwal, in District Fatehabad.

3. Autopsy was got conducted. Viscera was sent and the doctors preserved the cause of death till the receipt of the report of the chemical examiner. SIT was constituted. Call detail records of the mobile of deceased Gurpreet Singh were checked. A coca cola bottle was found from the vehicle of the deceased, though as per the family members, deceased did not use to drink coke. On finding the circumstances to be suspicious, FIR under Section 302/201 IPC was registered on 02.05.2016 against unknown persons. The investigation was conducted by a Special Investigation Team and involvement of accused Vishav Aman Singh son of Gurbaksh Singh was found, who was arrested on 12.05.2016 and after completion of investigation qua him, report under Section 173 Cr.P.C was presented.

4. Various representations were made by Smt. Sukhjit Kaur wife of Hazur Singh. She even filed CRM-M-3287 of 2017 before this Court and SLP No.39971 of 2018 before Hon'ble Supreme Court, wherein she was directed to avail appropriate remedy before the trial Court. Sukhjit Kaur then moved an application before the trial Court regarding probable involvement of Sukhjinder Singh @ Ladi, Balwinder Singh @ Ladi, Sewak Singh @ Sahu @ Gursewak Singh (present petitioner) and some other suspects. On the direction of the Court, further investigation was carried out by the SIT and involvement of only Sukhjinder Singh alias Ladi and Balwinder Singh @ Ladi was found and supplementary challan qua both of them was filed.

5. Later on, Sukhjit Kaur wife of deceased Hazur Singh moved an application under Section 319 Cr.P.C for summoning the petitioner Sewak Singh

alias Sahu alias Gursewak Singh and one Palwinder Singh to face trial with the other accused. That application was allowed and both of them were summoned vide order dated 24.03.2022.

6. It is submitted by learned counsel for the petitioner that neither in the statement of Smt. Sukhjit Kaur nor during proceedings under Section 174 Cr.P.C in the statement of Manjur Singh, the brother of deceased Hazur Singh, it was ever mentioned that petitioner was involved in the case. It is submitted that as per the allegations, Vishav Aman Singh allegedly administered sedative in coca cola and taking benefit of drowsiness of the deceased, he dragged the Scorpio Vehicle, in which two deceased were sitting in unconscious condition into the canal and then escaped. Learned counsel contends that the fact that vehicle was found to be in fifth gear with its hand brake lever pulled would indicate that vehicle was being driven at a high speed and the attempts were being made to stop the vehicle. Learned counsel has further drawn attention towards viscera reports Annexure P.2 and P.3 to contend that no drug or intoxicant was found as per the analysis of the viscera and further, PW Dr. Deepika Bansal has testified that both the deceased died on account of drowning, thus, demolishing the prosecution case. Still further, it is contended that except for Vishav Aman Singh, no one else was named in the complaint. No role of the petitioner was ever found and that petitioner and Palwinder have been summoned only on the application under Section 319 Cr.P.C. Petitioner submits that his custodial interrogation is not required as nothing is to be recovered from him and so, considering all the circumstances, he be allowed anticipatory bail, as he is ready to surrender before the trial Court and face trial.

7. Opposing the bail petition, it is contended by learned State Counsel

assisted by learned counsel for the complainant that petitioner and co-accused Palwinder challenged the summoning order under Section 319 Cr.P.C by filing CRR No.1189 of 2022 (O&M) and CRR No.1387 of 2022 (O&M) and both these revisions were dismissed by a co-ordinate Bench of this Court vide order dated 31.08.2022, as per which complainant had specifically stated in her testimony that blank cheques were given by Palwinder Singh and an agreement was executed by said Palwinder Singh in favour of son of the complainant on 30.08.2013. Besides, Sewak Singh, i.e. petitioner and Palwinder had also taken loans from her son i.e. deceased Gurpreet Singh. It is also contended that petitioner has refused to undergo the lie detection test on 24.01.2017. Apart from this, attention is also drawn towards gravity of the offence and prayer is made for rejection of bail petition.

8. I have considered the submissions of both the sides and have appraised the record.

9. Admittedly, petitioner is neither named in the FIR nor in the initial challan filed under Section 173 Cr.P.C. Even after the further investigation ordered by the learned trial Court, the role of the petitioner was not found in the crime and supplementary challan was filed only against Sukhjinder and Balwinder alias Ladi. The role attributed to the petitioner as per the testimony of complainant during trial is that he and Palwinder had taken loans from time to time from deceased Gurpreet Singh and that they had also refused to undergo lie detection test. In these circumstances, it will be a matter of trial as to how the petitioners are involved in any manner whatsoever in any sort of conspiracy so as to murder the deceased or what is the effect of their refusal to undergo lie detector test. Besides this, petitioner has been summoned to face trial on an application

under Section 319 Cr.P.C. during trial before the Court and so, obviously, his custodial interrogation is not required.

10. Having regard to all the afore-said facts and circumstances but without commenting anything further on the merits of the case, this Court finds it to be a fit case to grant anticipatory bail to the petitioner. As such, petition is allowed. It is ordered that on surrender of the petitioner before the learned trial Court within a period of 15 days from the date of receipt of certified copy of this order, the trial Court shall admit him to bail on his furnishing bail bonds and surety bonds to its satisfaction. He shall also abide by all the conditions as envisaged under Section 438 Cr.P.C with the further following conditions:-

- (i) that petitioner shall surrender his passport before the trial Court and shall not make any attempt to delay the proceedings in any manner nor shall try to approach any of the witnesses connected with the case; and
- (ii) that petitioner has to provide his e-mail address, if any, along with the mobile number and his affidavit regarding the correct address to the court. If at any stage, petitioner changes his address or mobile number etc., he has to immediately inform the Court.

Disposed of.

August 22, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No