

CRM-M-40301-2023
(286-2)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 14.12.2023

(1) CRM-M-40301-2023 (O & M)

Sukhwinder Kumar @ Binda Petitioner

V/s

State of Punjab ...Respondent

(2) CRM-M-45404-2023 (O & M)

Baljinder Singh Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Arti Kaur, Advocate,
(in CRM-M-40301-2023).
Mr. Gaurav Verma, Advocate
(in CRM-M-45404-2023) for the petitioner(s).

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Sarju Puri, Advocate, for the complainant in both the cases.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions
i.e. CRM-M-40301-2023 and CRM-M-45404-2023 as they arise out of the
same FIR.

2. The petitioner-Sukhwinder Kumar @ Binda (in CRM-M-40301-
2023) and the petitioner-Baljinder Singh (in CRM-M-45404-2023) seek the
grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.87

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dated 09.12.2021 under Sections 302, 34 IPC registered at Police Station Aur, District SBS Nagar.

3. For the sake of convenience, the facts are being taken from the petition bearing No. CRM-M-40301-2023.

4. The present FIR came to be registered at the instance of Gurdial Singh and reads as under:-

“Statement of Gurdial Singh son of Dalip Chand, am resident of village Herian, Police Station Mukandpur, District Shaheed Bhagat Singh Nagar, age about 68 years, mobile: 94654-62309. Stated that I am resident of abovesaid address and I am labourer by profession. ON dated 07-12-2021, at about 16:00 Hours, my son Chander Gupat, age about 32 years while riding on motorcycle bearing RC No: PB32-V-7377, Marka Hero Honda of Black colour had gone at somewhere from house. After that my daughter Rajwinder Kaur made telephonic call to my son on his mobile No: 78890- 73181 at about 16:31 hours, that time mobile of my son was showing switched off. After that we all member started search of my son, but he did not trace out. On dated 08-12-2021 my family and relatives started to search to my son Chander Gupat. That my son in law namely Jasvir Pal son of Teju Ram, resident of village Katt, Police Station Beharam & one Jaswinder Singh @ Sodhi son of Satnam Singh, resident of village Horiyan, while searching to my son reached at brick Kiln, situated near huts, near Mai Dita, area of Water channel, where Jasvir Pal and Jaswinder @ Sodhi checked the empty huts, upon checking huts motorcycle of my son bearing RC No: PB-32-V-7377, Marka Honda, seen standing here in one hut, which was locked and there was dead body of my son was lying in the corner of

another hut and they intimated this fact telephonically. Upon which I and my family members and the Gram Panchayat of the village reached at the spot and after reaching here I saw that there were some symbols injuries on the neck of my son and I intimated to the police of Police Station Aur and the police party reached at the place of occurrence and the police initiated proceedings on my statement. The police by getting conduct postmortem of the dead body of my son from the board of doctors from civil hospital Nawanshahar and had handed over the dead body to us for last cremation. About three months ago my son Chander Gupt had love with one Jasvir Kaur @ Sundari wife of Sukhwinder Kumar @ Binda son of Bag Ram, resident of village Herrian and they were used to make telephonic calls at different times and Sukhwinder Kumar Binda, husband of Jasvir Kaur @ Sundari had come to know about these illegal relations and there was huge news in village about their love relations. After knowing these relations, Jasvir Kaur @ Sundari had started to keep enmity against my son Chander Gupt @ Paee. That Sukhwinder Kumar @ Binda used to see to my son Chander Gupat with evil eye in the way. Tarlochan Singh @ Tochhi son of Des Raj, resident of village Horiyan, who is friend of Sukhwinder Kumar @ Binda is used to visit at shop of Binda [Building Material shop]. That one Baljinder Singh @ Lali son of Lal Chand, resident of village Jhingra, who is friend of Tarlochan Singh @ Tochhi generally is also use to visit the shop of Baljinder Singh @ Lali, to whom I knows well. Now I and my family have enquired the matter at our own legal and I have full confidence that the abovesaid Sukhwinder Kumar @ Binda son of Bag Ram resident of village Horiya, Tarlochan Singh @ Tochi son of Des Raj resident of village Horiyan; Baljinder Singh @ Lali son of Lal Chand, resident of village

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Jhingra, Police Station Mukandpur have murdered my son Chander Gupat. Legal action may be taken against abovesaid Sukhwinder Kumar @ Binda; Tarlochan Singh @ Tochhi and Baljit Singh @ Lali. I am recording this statement in the presence of my son Jaspreet Singh. I have got recorded my statement, heard it, which is correct. Sd/- Gurdial Singh; sd/- Jaspreet.”

5. During the course of investigation, on 10.12.2021, Sukhwinder Kumar @ Binda (petitioner in CRM-M-40301-2023) and Tarlochan Singh @ Tochi were apprehended in this case and a motorcycle bearing registration No.PB-32-H-6749 was recovered from their possession. During the course of their interrogation, Sukhwinder Kumar @ Binda and Tarlochan Singh @ Tochi disclosed the names of the other co-accused as Baljinder Singh @ Lali (petitioner in CRM-M-45404-2023) who was arrested on 10.1.2021.

Sukhwinder Kumar @ Binda and Tarlochan Singh @ Tochi got recovered a black polythene bag containing the mobile phone of Chander Gupta make VIVO alongwith the SIM card, one key of a motorcycle, one black purse which was containing one passport size photo of Chander Gupta, photocopy of an Aadhar Card, Indian currency of Rs.150/- alongwith a black muffler. Baljinder Singh @ Lali got recovered a motorcycle bearing registration No.PB-32-S-8648 alongwith a mobile phone make Nokia.

6. The learned counsels for the petitioners contend that the petitioners had been falsely implicated in the present case. They had been named in the FIR on the basis of suspicion and the recoveries had been

planted upon them. As the petitioners were first-time offenders, in custody

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since 10.12.2021 and only 04 of the 29 prosecution witnesses had been examined so far, the Trial in the present case was not likely to be concluded anytime soon and therefore, they were entitled to the concession of bail.

7. The learned counsel for the State and the learned counsel for the complainant while referring to the replies dated 14.12.2023 (filed in the Court today in CRM-M-40301-2023 and is taken on record) and 08.11.2023 (already filed and is on record in CRM-M-45404-2023) submit that the petitioners were duly named in the FIR. When they were arrested, they suffered their disclosure statements admitting to have committed the offence in question. They also got recovered articles belonging to the deceased. Thus, there was sufficient evidence available against the petitioners. In view of the serious nature of the allegations levelled against them, they were not entitled to the grant of bail. They, however, concede that the petitioners were first-time offenders, in custody since 10.12.2021 and only 04 of the 29 prosecution witnesses had been examined so far.

8. I have heard the learned counsel for the parties.

9. The veracity of the prosecution case against the petitioners and their co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioners are first-time offenders, in custody since 10.12.2021 and only 04 of the 29 prosecution witnesses have been examined so far. Therefore, the trial in the present case is not likely to be concluded anytime soon. In this situation, further incarceration of the petitioners is not

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10. Thus without commenting on the merits of the case, the present petitions are allowed and the petitioner-Sukhwinder Kumar @ Binda (in CRM-M-40301-2023) and Baljinder Singh (petitioner in CRM-M-45404-2023) 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.

11. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and shall file an affidavit each time that they are not involved in any other case/crime other than the present case.

12. If any attempt whatsoever is made by the petitioners and/or their family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

13. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioners from Trial without sufficient cause.

14. These petitions stand disposed of.

(JASJIT SINGH BEDI)

December 14, 2023

JUDGE

sukhpreet

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No