

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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(1)

CRM-M-42167-2023

Date of decision: 25.08.2023

Surjit Singh

.....Petitioner

Versus

The State of Punjab and another

.....Respondents

(2)

CRM-M-42210-2023

Date of decision: 25.08.2023

Mewa Singh

.....Petitioner

Versus

The State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gaurav Datta, Advocate for the petitioners.

MANJARI NEHRU KAUL, J.

1. This order shall dispose of the abovementioned two petitions as they arise out of the same incident and FIR.

2. The petitioners are seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.57 dated 15.09.2019 under Sections 302, 148, 149 of the IPC and Sections 25-27-54-59 of the Arms Act, 1959 (Section 380 of the IPC added lateron) registered at Police Station Sarai Amanat Khan, District Tarn Taran as they were summoned under Section 193 of the Cr.P.C. by the learned Additional Sessions Judge, Tarn Taran vide order dated 13.02.2023.

3. Learned counsel has vehemently argued that a false story has been coined by the complainant party that the double murders of

Amanpreet Kaur and Amandeep Singh had been committed as the former's family was unhappy with her love marriage with the latter. Learned counsel has submitted that there was no material on record to show that the family of Amanpreet Kaur had been unhappy with her marriage, because in the FIR itself it had been stated that the parents of deceased Amanpreet Kaur had accepted her marriage with deceased Amandeep Singh. Still further, it has been asserted that even otherwise there was no occasion for the petitioners to be nursing any grudge towards the deceased once the parents of deceased Amanpreet Kaur had also accepted their marriage. Learned counsel for the petitioners has further asserted that they were rightly found innocent during investigation by the investigating agency as it had come to light that the two when murders were allegedly committed, they were not even present at the spot. Learned counsel has, therefore, urged that it is evident that application under Section 193 of the Cr.P.C. had been filed by the complainant just to humiliate and harass the petitioners.

4. Learned counsel has further argued that the status of an additional accused summoned to face trial under Section 319 of the Cr.P.C. is at par with that of an additional accused summoned under Section 193 of the Cr.P.C., and such accused cannot be denied the concession of anticipatory bail as he too was not originally challaned by the investigating agency to face trial. Learned counsel, therefore, asserts that once the investigation report was in favour of the petitioners whereby they had been admittedly found innocent, no useful purpose would be served in sending the petitioners behind bars as their custodial interrogation would not be required in the facts and circumstances.

Learned counsel has submitted that there was now a genuine apprehension that the petitioners could be arrested and sent to custody as and when they appeared before the Trial Court.

5. I have heard learned counsel and perused the relevant material on record.

6. The FIR in question (Annexure P-1) was registered at the instance of complainant Harmanjit Singh @ Hamma, who was also an eye witness to the occurrence in question. As per the allegations levelled in the FIR, on the fateful day, when the complainant and both the deceased i.e. Amanpreet Kaur and Amandeep Singh, were returning from Gurudwara Baba Buddha Sahib Ji on their respective motorcycles, all the accused suddenly descended at the spot, on their car and motorcycles. On coming to the spot, the accused first struck their car against the motorcycle of the deceased, as a result of which they fell down on the road. Thereafter, all the accused, who were armed with lethal weapons, including firearms, attacked both the deceased and inflicted multiple injuries on their person. Both the deceased, who were still alive, were then pushed by the accused into their car, and taken to the village where they were thrown out by the accused. After being thrown out of the car, the accused yet again inflicted injuries and fired upon both the deceased and also tried to run their car over them. It was the complainant himself who informed his family about the crime in question. While deceased Amandeep Singh died at the spot, his wife Amanpreet Kaur, who was still alive, was removed to the hospital, however, she too succumbed to her injuries later on. The FIR was promptly lodged after the occurrence in question.

7. The alleged motive to commit the crime in question was deceased Amanpreet Kaur's marriage with deceased Amandeep Singh, against the wishes of her family. Prima facie it appears to be a case of honour killing where two married adults were killed in the most barbaric manner in broad day light. The case in hand rests on eye witness account wherein the complainant/eye witness specifically named all the accused including the petitioners as he claimed to be well acquainted with them; he also spelt out the role played by each of them in the crime in question, while lodging the FIR.

8. The parity claimed by learned counsel for the petitioners with an accused summoned under Section 319 of the Cr.P.C. to face trial, for grant of anticipatory bail, is highly misplaced and sans any merit. It needs to be emphasized that a person, declared innocent and placed in column No.2 by the investigating agency, but summoned subsequently under Section 319 of the Cr.P.C. is on a different pedestal when he/she approaches a Court for the concession of anticipatory bail, precisely for the reason that if during the course of trial, such accused was unable to tamper with material evidence or influence the prosecution witnesses to depose in his favour, granting him bail under Section 438 of the Cr.P.C. would not in any manner prejudice the case of the prosecution. However, when a person is summoned under Section 193 of the Cr.P.C., prior to the commencement of prosecution evidence, there would be a strong apprehension that the accused could still tamper with evidence or try to influence witnesses to depose in his favour. Be that as it may, merely because an accused has been summoned under Section 193 of the Cr.P.C. or even under Section 319

of the Cr.P.C., cannot be a ground to extend the concession of anticipatory bail under Section 438 of the Cr.P.C.

9. The power to grant anticipatory bail, though is discretionary, however, it has to be exercised judiciously and not arbitrarily, and that too after taking into consideration the nature and gravity of the offence allegedly committed, and of course, the history of each individual case.

10. Furthermore, learned counsel for the petitioners, no doubt, vehemently argued that the petitioners were not present at the spot when the alleged occurrence took place, however, the plea of alibi, would be a matter of trial and cannot be delved into by this Court while deciding a petition under Section 438 of the Cr.P.C.

11. The fact of the matter is that the Trial Court has prima facie found sufficient material to proceed against the petitioners and has thus, summoned them to face trial. This Court cannot be expected to turn a blind eye to the nature and gravity of the allegations levelled in the FIR. The likelihood of the petitioners absconding, and even trying to tamper with evidence and influence the prosecution witnesses cannot be ruled out moreso when the eye witness/complainant, who would be the star witness, is yet to be examined before the Trial Court.

12. Hence, in the facts and circumstances as enumerated hereinabove, this Court does not deem it appropriate to extend the extraordinary concession of anticipatory bail to the petitioners.

13. Accordingly, the instant petitions being devoid of any merit are dismissed.

14. However, it is made clear that anything observed

hereinabove shall not be construed to be an expression of opinion on the merits of the case.

25.08.2023

Vinay

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(MANJARI NEHRU KAUL)
JUDGE