

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

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Date of decision : 28.02.2023

(i)

CRM-M-53757-2022

Baljinder Singh

Petitioner

V/S

State of Punjab

Respondent

(ii)

CRM-M-55215-2022

Davinder Singh

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Hitesh Verma, Advocate and
Ms. Amarinder Kaur, Advocate for the petitioners.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

Mr. Siddharth Gupta, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

This order will dispose of the above mentioned petitions as
the same arisen out of the common FIR.

The petitioners have filed the present petitions under
Section 438 of the Code of Criminal Procedure, 1973 for grant of
anticipatory bail in case FIR No.160 dated 03.11.2022 registered under
Sections 306 and 34 of the Indian Penal Code, 1860 at Police Station
Nehianwala, District Bathinda.

The above-said FIR was registered on a complaint made by Sandeep Singh alleging that Davinder Singh and Baljinder Singh (the petitioners) in connivance with each other abetted his brother Yadwinder Singh to commit suicide. Yadwinder Singh was remaining tense from a few days and when the complainant asked him about the same, Yadwinder Singh told the complainant that the petitioners are threatening to kill him. On 02.11.2022 at about 12:45 p.m., Yadwinder Singh informed him that when he was working in the fields, the petitioners came there and they beaten him and torn his clothes and they had also threatened to kill him. On the same day at about 6:00 p.m., Yadwinder Singh informed the complainant on mobile that due to threat given by the petitioners, he has consumed sulphas. Thereafter, the complainant took his brother to hospital and during treatment his brother was died.

Learned counsel for the petitioners submit that the petitioners have been falsely implicated in the present case. The petitioners have nothing to do with the death of Yadwinder Singh. There is no proof that the deceased was ever given beatings by the petitioners. The petitioners have no motive to commit the alleged offence. In fact, the deceased was a drug addict and he and his brother had taken some loan from the petitioners. When the petitioners demanded their money back, the deceased and his brother refused to return the same. Later on when Yadwinder Singh expired, then a false story was cooked by the brother of the deceased in order to avoid his liability to return the loan and falsely implicate the petitioners. If someone is very hyper sensitive

and commit suicide for a very small issue then the other person cannot be held responsible for the same. Nothing is to be recovered from the petitioners and their custodial interrogation is not required in the case. In support of their arguments, learned counsel for the petitioners have placed reliance upon the judgment of Hon'ble Supreme Court passed in ***Criminal Appeal No.1301 of 2022 titled as 'Gangula Mohan Reddy Vs. State of Andhra Pradesh' decided on 05.01.2010*** and order of this Court passed in ***CRM-M-34145-2020 titled as 'Jagroop Singh Vs. State of Punjab' decided on 17.12.2020*** and ***CRM-M-12594-2013 titled as 'Jagdeep Kaur Vs. State of Punjab' decided on 02.08.2013***.

On the other hand learned State counsel assisted by learned counsel for the complainant has vehemently opposed the present petitions on the ground that the petitioners instigate deceased-Yadwinder Singh to commit suicide and in his suicide note the deceased has specifically named both the petitioner. As per the FSL report, suicide note is opined to be written by the deceased. For thorough investigation of the case, custodial interrogation of the petitioners is required. Therefore, the present petition may be dismissed.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioners are serious in nature. As per reply filed by the State in CRM-M-55215-2022, during investigation it was found that both the petitioners are real brothers. Yadwinder Singh (now deceased) had borrowed some amount from the petitioners. The petitioners used to harass and beat Yadwinder Singh and also threatened him to kill him. Yadwinder Singh committed suicide by consuming

sulphas due to the harassment and threat given by the petitioners. A suicide note which is not signed was recovered from the pocket of the shirt of deceased in which it is mentioned that *“I Yadwinder Singh s/o Sukhmander Singh is being threatened to be killed by both the brothers Baljinder Singh and Davinder Singh, I am committing suicide under pressure”*. As per the FSL report, suicide note is opined to be written by the deceased which is sufficient piece of evidence against the petitioners.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case custodial interrogation of the petitioners is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the

person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioners do not deserve the concession of anticipatory bail. Hence, both petitions are hereby dismissed.

28.02.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No