

213

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 56434 of 2023
Date of decision:-11.12.2023

LAKHVIR SINGH AND ANOTHER

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. B.S. Aulakh, Advocate for the petitioners.
Mr. Subhash Godara, Addl. AG, Punjab.

.....

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in the following case:-

FIR No.	Dated	Sections	Police Station
12	13.02.2021	(342, 323, 34 IPC deleted) 304 and 316 IPC added lateron	Joga, District Mansa

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioners are innocent and have been falsely implicated in this case. He submits that after thorough investigation in the matter the

petitioners were found innocent and challan was presented against co-accused Kulwinder Singh @ Marjana. He submits that however during the course of trial on the application under Section 319 Cr.P.C having been moved by the complainant, learned trial Court summoned the petitioners to face trial, for having committed offence under Section 304, 316 IPC. He submits that the petitioners are innocent and already faced the trial and prayed for grant of concession of bail.

3. Learned State counsel has opposed the bail application considering the gravity of the offences, however he had not disputed the factual matrix qua the petitioners having been found innocent during the investigation.

4. In *nutshell* the case of the prosecution is that the instant FIR was registered on the basis of statement of Gurwinder Singh on the allegations that his sister Gurjit Kaur was married to Kulwinder Singh about one year back who was addicted to intoxicants and as such used to quarrel with her. Due to frequent quarrels his sister came to parental house about 12 days back and told him that petitioner No.2 i.e. Kulwinder Singh used to beat her after locking the door. As per the complainant on 09.02.2021 both the petitioners Kulwinder Singh and Lakhvir Singh and co-accused Kulwinder Singh @ Marjana came to their house on motor cycle around 11:00 a.m. and after quarrel with them they forcibly took his sister. On 11.02.2021 the complainant came to know that his sister was thrown in fields after giving beatings in Village Burj Rathi. After arranging vehicle she was shifted to hospital where she gave birth to a dead child. Thereafter,

her condition deteriorated and on 29.11.2021 she also died in hospital.

5. Considering the respective arguments and the facts and circumstances, it transpires that although the FIR was registered against the petitioners and co-accused Kulwinder Singh @ Marjana but after investigation the police had presented challan only against Kulwinder Singh @ Marjana and had declared the present petitioners innocent in the case. It is only during the course of trial that on application under Section 319 Cr.P.C having been moved by the complainant, the present petitioners have been summoned to face trial by the trial Court. Since petitioners have been found innocent during the investigation, impliedly, they are not required for investigation, however they have summoned by the trial Court in pursuance to the application under Section 319 Cr.P.C, the petitioners have to face trial and it will only be after the conclusion of trial their criminal liability, if any, could be determined.

6. Resultantly, without commenting on the merits of the case, the present petition is, hereby, allowed and the petitioners are directed to appear before the trial Court within seven days from today and in that event, the petitioners are ordered to be released on bail on their furnishing personal/surety bonds to the satisfaction of the learned Trial Court. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C. Further the petitioners will regularly appear on each and every date of hearing and not to leave country without the permission of the Court and further they will not tamper with the evidence in any manner.

7. The petition stand allowed.

8. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)
JUDGE

11.12.2023

Gyan

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |