

108

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11806-2024 (O&M)
Date of decision: 07.03.2024

Jashanpreet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Neeraj Madaan, Sr. DAG, Punjab.

MAHABIR SINGH SINDHU, J. (ORAL)

Second petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.36 dated 21.02.2023, under Sections 304, 323, 341, 427, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC'), Section 25 of Arms Act, 1959 (added later on) and Section 302 of IPC (added later on), registered at Police Station Sadar Kharar, District SAS Nagar.

2. Allegations in brief are that on account of some old altercation, the accused persons rammed their car into the car, driven by nephew of the complainant, namely Akashdeep Singh and his son namely Babanpreet Singh

was sitting in the car and gave beatings to both of them. Due to the injuries sustained, son of the complainant namely Babanpreet Singh died.

3. Learned counsel for the petitioner contends that as a matter of fact, at best, allegations are attracting Section 304-A of IPC, but police, in connivance with complainant side, have converted the same to a murder case vide DDR No.17 dated 15.02.2023. Also contends that although petitioner has been declared as proclaimed offender, but in view of the fact that he is ready to join the investigation, petitioner be protected. Cites **Balveer Singh Bundela Vs. State of Madhya Pradesh**, reported in **2021 (3) Cri. CC 555** and **Mamta Giri Vs. State of U.T. Chandigarh**, reported in **2022 (1) Law Herald 641**.

4. *Per contra*, learned State counsel, while opposing the prayer, submits that petitioner has been declared as proclaimed offender and moreover, pre-arrest bail of co-accused Tarandeep Singh has already been dismissed by this Court vide order dated 22.02.2024 passed in CRM-M-7156-2024. It is also submitted that as a matter of fact, it was a murder case and has been given the colour of an accident, thus, custodial interrogation of the petitioner would be required.

5. Heard learned Counsel for the parties and perused the paper-book.

6. This Court, while declining the pre-arrest bail of co-accused, observed as under: -

“(7) Since the offences committed by the petitioner along with other co-accused are serious in nature; proclamation proceedings under Section 82 of the Cr.P.C. have already been initiated against them and two more cases of similar nature are pending against the

petitioner. Thus, in order to ascertain the mode and manner of commission of alleged offence, custodial interrogation of the petitioner is required.”

7. Even after going through statement of driver of the bus, this Court is satisfied that the deceased was chased by the accused persons and in that course, he died in a purported accident with Himachal Roadways Bus bearing registration No.HP-53-B-7401. Thus, *prima facie*, it appears to be a murder.

8. It is not in dispute that petitioner has already been declared as proclaimed offender by learned Judicial Magistrate 1st Class on 23.02.2024; thus, in such a situation and more particularly the allegations levelled against the petitioner, the judgments cited by learned counsel for petitioner are not helpful in any manner.

9. Consequently, this Court is of the opinion that custodial interrogation of the petitioner would be very much necessary to know the *modus operandi* adopted by the accused, while committing the alleged offence. As a result thereof, there is no option except to dismiss the present petition.

10. Ordered accordingly.

11. The above observations may not be construed as an expression of opinion on merits of the case.

12. Pending application(s), if any, shall also stand disposed off.

07.03.2024
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[MAHABIR SINGH SINDHU]
JUDGE

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