

CRM-M-23197-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23197-2024
Reserved on: 07.08.2024
Pronounced on: 30.08.2024

Rajwinder Singh real name Rajgurwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Sidhu, Advocate for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
58	04.05.2023	Sadar Tarn Taran, District Tarn Taran	306, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In Note 2 of the petition, the accused declares that he has no criminal antecedents.
3. On 09.05.2024, the petitioner was granted interim bail by Coordinate Bench of this Court, which is continuing till date.
4. Facts of the case are being taken from the reply dated 16.07.2024, which reads as follows:-

“That it is submitted that the brief facts pertaining to the present case are that the petitioner Sukhdev Singh got recorded his statement before the investigating officer to the effect that he is a farmer by occupation and they are two brothers and one sister and the eldest is Kulwinder Kaur and she is married, he is younger to her and his brother Baldev Singh is the youngest aged 40 who is unmarried. The land of Supinder Kaur wife of Dhyan Singh and Rajwinder Singh son of Kuldeep Singh, residents of Rurre Assal and their land are located together and there has been a dispute over the said land since long time for water canal and they had been stopping them from digging the water canal. On 03/05/2023. at about 3:00 pm, the petitioner Supinder Kaur, Rajwinder Singh @Rajgurwinder Singh along with Gurmej Singh son of Santokh Singh, Satnam Singh son of Harbans Singh, Kirat Singh, Jitender Singh S/o Balwinder Singh. (Binda), Manjeet Singh son of Channan Singh came in a

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drunk condition on their land and destroyed their existing water canal and forcefully dug a new water canal in their land and they have harassed them a lot and his brother Baldev Singh said to him that they have harassed them a lot and have troubled and tortured them a lot and if he face any physical or financial damage then all of the persons mentioned above will be held responsible for this and on 04/05/2023, his Brother Baldev Singh left their home at 6 am in the morning in a tensed state and came back home at 8 am and fell on his bed in a sick condition due to which they rushed him to the nearby hospital by arranging a vehicle but he died on the way itself before reaching the hospital. Due to the persons mentioned above, his brother ate poison and committed suicide and the aforesaid persons are all responsible for the death of his brother and in this regard, the present case FIR No.58 dated 04.05.2023, under section 306/120-B of IPC has been registered at PS Sadar Tarn Taran against Supinder Kaur, petitioner Rajwinder Singh, Gurmej Singh, Satnam Singh, Kirat Singh, Jatinder Singh and Manjit Singh.

4. That during the course of investigation, the post mortem of the deceased was conducted at Civil Hospital, Tarn Taran and as per the FSL report, "THE ORGANOPHOSPOROS COMPOUND FOUND POSTIVE IN STOMACH AND ITS CONTENTS, PART OF SMALL AND LARGE INTENSTINE WITH CONTENTS, PART OF LUNGS AND HEART, PARTS OF LIVER, SPLEEN AND KIDNEYS AND BLOOD SAMPLE.

SO THE FINAL CAUSE OF DEATH IN THIS CASE IN MY OPINION IS DUE TO RESPIRATORY FAILURE BECAUSE OF INGETION OF ORGANOPHOSPOROS INSECTICIDE, WHICH IS SUFFICIENT TO CAUSE OF DEATH IN ORDINARY COURSE OF NATURE."

5. The petitioner's counsel submitted that on 03.05.2023 around 3 PM the accused persons destroyed the existing water course forcibly and dug new water canal in the land of the complainant side and because of this reason caused lot of harassment to deceased and complainant. He further submitted that due to harassment caused on 04.05.2023 the deceased (brother of complainant) left home at 6 AM in tense state of mind and came back at 8 AM and fell on his bed in sick condition and he was rushed to hospital but he expired on the way to hospital and as such he committed suicide by consuming some poisonous substance. It is also submitted that it is a case of no recovery of suicide note and no act of instigation on the part of the petitioner has been alleged in order to constitute the offence under Section 306 IPC.

6. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

7. The State opposes the bail and has referred to para 7 of the reply, which reads as follows:

"7. That it is submitted that during the investigation, the complainant had produced a mobile phone along with SIM card of JIO company and in the

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said phone audio clip was found, on hearing the voice of said clip, it is emerged that the deceased has leveled specific allegations against the petitioner and co-accused. In this regard a report from Incharge, Digital Forensic Lab, Ferozpepur has been received and same is annexed with the final report.”

8. The allegations are general and not specific, which would prima facie point towards abetment when deciding the bail petition, keeping in mind that this Court is neither considering the evidence at the stage of charge nor trial.

9. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

11. A certified copy of this order would not be needed and any Advocate for the petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

13. Petition allowed in terms mentioned above and interim order dated 09.05.2024, is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024

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Whether speaking/reasoned: Yes

Whether reportable: No.