



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-31031-2024

DATE OF DECISION: 31.07.2024

GURPREET SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Sekhon, Advocate for the petitioner(s).
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 438 Cr.P.C., has been invoked seeking the concession of anticipatory bail to the petitioner in FIR No.50 dated 23.03.2023 under Sections 34/302/120-B IPC, 1860, registered at Police Station Dharamkot, District Moga.

2. Prosecution story setup in the present case as per the version in the FIR as under :-

‘Contents: Copy of statement, statement of Kashmir Singh son of Balkar Singh son of Nihal Singh resident of Sherpur Taiba aged about 50 years, mob. No. 9463780188, it is stated that I am resident of above mentioned address and working as labourer. I have two daughters and two sons. My elder daughter namely Amarjit Kaur Babbu aged about 25 years performed love marriage with Balwinder Singh @ Bindu son of Mangat Singh of our village 6 years ago. They were blessed with 2 children. Balwinder Singh Bindu is habitual of selling intoxicants and he had illicit relations with other women. My daughter used to forbade him for the same. Due to which there used to be quarrel



among them. Two days ago Balwinder Singh had also withdrawn Rs. 80, 000/- from the bank a/c of my daughter. My daughter informed me about the same. Yesterday at about 10 in the night Balwinder Singh called me that "at about 9:30 I along with my wife Amarjit Kaur Babbu was coming towards our village Sherpur Taiba from village Dholewala on my motorcycle. When we reached at bridge of canal in the revenue limits of village Sherpur Taiba then 6 persons riding on 3 motorcycles encircled us and gave injuries to my wife. All the persons ran away from the spot and I also ran away from the spot. When I along with my brother Jagir Singh were about to leaving for the spot then we came to know that my daughter has been murdered and Balwinder Singh etc has brought the dead body at home and Balwinder Singh etc. has called the police officials and kept the dead body at the Mortuary House of CH/Moga. Thereafter we reached at Civil Hospital Moga and had seen the dead body of our daughter and there was cut mark on her right shoulder and there were other injuries. It seems that she was strangulated also. We are sure that said Balwinder Singh Bindu, Jyoti, Sukhwinder Singh Gurpreet Singh Gopi son of Mehar Singh resident of Daulewala Mayar and other unknown persons who altogether are indulged in the business of drugs, under their preplanned conspiracy has murdered my daughter Amarjit Kaur Babbu. I after asking my nephew namely Kirtan Singh son of Jagir Singh to stay near the dead body was coming towards you for recording my statement. You have met at Goal Chowk Dharamkot. Kindly take action. I have read and heard it as correct. LTI/ Kashmir Singh verified SD/ Jangir Singh (Brother) Attested SD/ Jaswinder Singh INSP SHO PS Dharmakot dated 23.03.2023.'

3. On the last date of hearing i.e. 03.07.2024, the following order was passed :-



Learned counsel for the petitioner contends that the name of the petitioner has been nominated subsequently after a lapse of more than 3% months merely on the basis of an affidavit submitted by the complainant that it is Gurpreet Singh son of Pala Singh, who was actually involved in committing murder and not the one Sukhwinder Singh @ Gurpreet Singh son of Meher Singh, who was on the first occasion arrayed as an accused in the instant FIR. It is contended by Mr. Sekhon, learned counsel for the petitioner that merely on the basis of an affidavit submitted by the complainant it was concluded without any other evidence supporting the assertion made by the complainant after 3 months from the date of occurrence and the registration of the FIR that Sukhwinder Singh @ Gurpreet Singh son of Mehar Singh is innocent and Gurpreet Singh son of Pala Singh, the present petitioner in association with the other co-accused persons namely Balwinder Singh, Kuldeep Singh and Jyoti was involved in 5 committing the murder of the daughter of the complainant, namely Amarjit Kaur.

Notice of motion.

On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of the respondent-State, who is directed to produce the file of investigation conducted from the date of the registration of the instant FIR i.e. 23.03.2023 till date.

Adjourned to 11.07.2024.

4. Contentions

On behalf of the petitioner

The learned counsel for the petitioner has submitted that his name was dragged into the instant FIR only after conclusion of the investigation and even the challan being presented before the Court. The police procured the statement from one co-accused Gurpreet Singh s/o Mehar Singh in connivance with the complainant to implead the



present petitioner vide DDR dated 06.07.2023 and nominated him as an accused.

Learned counsel for the petitioner has argued that the co-accused Gurpreet Singh was found innocent by the investigating agency vide inquiry report No. 1666/PC dated 31.05.2023. The assertion is that the petitioner was subsequently nominated as an accused in the present case by the Investigating agency while relying upon the affidavit dated 10.04.2023 given by the complainant to the enquiry officer.

Vide order dated 03.07.2024, learned State Counsel was directed to produce the file of investigation conducted in the instant FIR till date but he has failed to adhere to the said direction.

5. **Analysis**

This Court instead of diving deep into the conduct of the investigating agency at this stage, leaves it open to the petitioner to take recourse as per law.

In light of the aforesaid facts and circumstances, the name of the petitioner was added in the list of the accused at a later stage i.e. after filing of the challan and completion of the investigation, which fact has not been controverted by learned State Counsel, this Court finds no reason to deny the petitioner the concession of pre-arrest bail if he is willing to join the investigation and cooperate for furtherance of the same, so that the final report can be submitted by the Investigating Agency in time.

**6. Decision:**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C which are reproduced below :-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section :*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

31.07.2024
anuradha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No