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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52394-2024
Reserved on: 11.11.2024
Pronounced on: 26.11.2024

Karam Singh @ Karam ...Petitioner

Versus

State of Punjab ...Respondent

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Jaspal Singh @ Pal ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.K. Arora, Advocate and
Mr. Lovish Arora, Advocate
for the petitioner(s).

Mr. Akshay Kumar, A.A.G., Punjab.

Mr. Manav Bajaj, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
91	19.07.2018	Sadar Faridkot	459, 307, 34 IPC

1. These bail petitions are being decided together, and the facts are taken from the reply filed in CRM-M-52394-2024, Karam Singh v. State of Punjab. Petitioner Karam Singh is the victim’s brother-in-law (the Brother of her missing husband), and petitioner Jaspal Singh alias Pal Singh is her father-in-law.

2. The petitioners, apprehending arrest in the FIR captioned above, have come before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

3. In paragraph 15 of the bail petitions, the accused declares that they have no criminal antecedents

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4. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

"4. That the complainant had stated that "Jagmeet Singh son of Pal Singh had performed love marriage with Mamta Rani d/o Satish Kumar of same village for last 07 years and started living husband and wife in the village. On 12-7-2018, said Mamta Rani was present in her house. Her husband Singh had gone to the holy place of Baba Pir Nahage wale. When he returned to his house in late hours, he found that her wife Mamta Rani was lying injured and blood was oozing out of her head, she was unconscious. Her husband took her to GGS Medical College for treatment and then she was referred to Ludhiana. Some unknown persons intruded the house of Mamta Rani and caused injuries with intention to kill her". Acting upon this information, Investigation was launched for offence u/s 307 and 459 IPC at Police Station Sadar Faridkot.

5. That in this regard, earlier a medical ruga no. ED-937 dated: 12- 7-2018 pertaining to Mamta Rani was received at Police Station on the intervening night of 12/13-7-2018, who was brought to GGS Medical College and subsequently due to severity of her injuries, the victim-Mamta Rani was. shifted to DMC Ludhiana with following injury

The patient-victim had a Bone deep Laceration 7 X 1 cm injury over the temporal region with depressed bone."

On 14-7-2018, Police visited at DMC, Ludhiana but as per medical advice, the victim was not able to make any statement. Subsequently the injury was declared Dangerous to Life in final medical opinion dated 16-10-2018. Copy of Medical Opinion is annexed as Annexure: R-1.

Nomination of Accused:

6. That on 25-10-2019, statement of victim Mamta Rani was recorded with the help of her sister in law and on the basis of statement of victim Mamta Rani, his i) father- in law Pal Singh, ii) grand mother-in-law Gurnam Kaur and iii) brother-in-law-Karam Singh-Petitioner were nominated as accused vide DDR No. 28 dated: 25-10-2019 and offence u/s 459 IPC was reduced and enhancement of section 34 IPC was made.

7. That on 26-12-2019 both the nominated accused Jaspal Singh @ Pal Singh and present petitioner Karam Singh were joined in investigation but nothing substantial material came on record to put them under arrest and both accused were relieved for time being. Gurnam Kaur had died during the course of investigation. An application to get recorded statement of victim u/s 164 CrPC was moved by the Investigating officer before the Court of Ld. ACJM, Faridkot which was declined on 20-01-2020, Thereafter vide letter no. 846-5A dated: 06-3-2020, a medical board was constituted to assess the medical fitness of victim and concerned board found the victim still unfit to make any statement. The victim was not able to described about the occurrence. During inquiry on a representation no. 579-PC-8/20 dated 25-7- 2020

made by co-accused Jaspal Singh, the evidence against accused was found insufficient, Accordingly, present Petitioner and co-accused Jaspal Singh both were declared innocent vide DDR No. 18 dated 06-11-2020.

8. That in pursuance of the Inquiry Report in representation no. 579-PC-8/20 dated 25-7-2020 moved by the accused, the Untrace Report in case-FIR No. 91/2018 (supra) was presented in the competent court on 09-3-2021 which was declined by Ld. Court of ACIM, Faridkot vide order dated: 09-3-2021 and remitted back the matter for further investigation.”

5. The petitioner's counsel drew the attention of this Court to paras 3 to 12 of the bail petition, which read as follows:

“3. That it is submitted here that Mamta Rani is the sister-in-law (Bhabi) of the petitioner. Mamta Rani was married to the brother of the petitioner namely Jagmeet Singh against the wishes of her parents as it was a love marriage. It is evident from the perusal of the FIR that Jagmeet Singh husband of Mamta Rani was the first person who actually saw her wife and took her to Hospital and Modan Singh Chowkidar was named as Complainant in the said FIR being the chowkidar of the village.

4. That initially the FIR was registered against unknown persons, however, later on the petitioner and his father Jaspal Singh were nominated as an accused on the basis of one statement of injured victim dated 25.10.2019 to the effect that her father in law and her grandmother in law often used to quarrel with her and that she should give money to them or she should leave from their home and on that night, the petitioner and her father in law had come to the house. It was further stated that the petitioner and his father were quarreling with the victim over a sum of Rs. 2 lakhs and when the victim opposed it, then the petitioner started strangulating her and her father in law Jaspal Singh inflicted Kirpan blows on her head.

5. That it is pertinent to mention here that after the fateful day, the victim was constantly under treatment and she was declared to be unfit for getting her statement recorded. However, the above said statement was recorded on 25.10.2019. It is submitted here that a medical board was constituted for examining the medical condition of the victim Mamta Rani and a report dated 14.10.2020 was submitted in this regard. A copy of the report dated 14.10.2020 is attached herewith as ANNEXURE P-2. Perusal of the report would reveal that the medical board had reached to the conclusion that even on that day i.e.. 14.10.2020, Mamta Rani cannot tell her version. She can neither listen nor she can comprehend anything properly and as such she was declared medically unfit on that day. The Medical Board in its report had stated that no comments could be made regarding the statement of Mamta Rani dated 25.10.2019.

6. That before proceeding further, it is pertinent to mention here that the husband of the victim namely Jagmeet Singh (brother of

petitioner) had gone missing on 07.10.2018 and is still missing as on date.

7. That thereafter, the police conducted thorough investigation and found that the petitioner and his father had no role to play in causing injuries to the victim Mamta Rani and as such they were exonerated and an untraced report was filed before the Ld. ACJM, Faridkot. A copy of the conclusion report dated 26.10.2020 prepared by the Deputy Superintendent of Police, Sub Division Faridkot is attached herewith as ANNEXURE P-3. Perusal of the same would reveal that it has been found that the petitioner and his father had left no stone unturned to get the victim medically treated and had it been the case that the petitioner and his father were responsible in causing injuries to Mamta Rani, then they would have not got treated Mamta Rani from a well reputed Hospital like D.M.C. Further, it has been found that the statement of the victim recorded on 25.10.2019 was under pressure of Satish Kumar (father of victim) and Deepti Monga. However, the untraced report presented before the Ld. ACJM was rejected vide order dated 09.03.2021 and the officer in charge of the police station was directed to further investigate the matter. A copy of the order dated 09.03.2021 is attached herewith as ANNEXURE P-4.

8. That during the investigation, the complainant chowkidar was associated and his statement was recorded wherein he has specifically stated that the injuries were caused by some unknown persons and they were not caused by the petitioner or his father Jaspal Singh. It is pertinent to mention here that the petitioner and his father Jaspal Singh were also associated in the investigation and their statements were also recorded.

9. That now again, the petitioner and his father Jaspal Singh have been roped in the present FIR vide DDR No. 22 dated 16.09.2024. A copy of the DDR dated 16.09.2024 is attached herewith as ANNEXURE P-5. Perusal of the DDR would reveal that the victim was produced before the court of Miss Chandan, JMIC/FDK and her statement was got recorded under Section 183 BNSS, on the basis of which the present petitioner and Jaspal Singh have been nominated.

10. That in fact it is submitted here that Satish Kumar Monga (father of victim) and his family were keeping grudge against Jagmeet Singh and his family due to the solemnization of love marriage and they were already proclaiming that by solemnizing love marriage they have been defamed by them and they will teach them a lesson and they under a conspiracy firstly caused injuries to Mamta Rani and subsequently kidnapped Jagmeet Singh on 07.10.2018. A complaint dated 23.05.2022 in this respect was submitted by the petitioner wherein the petitioner has specifically stated that the father of the victim Satish Kumar has on a number of occasions beaten the father of the petitioner and he has strong reasons to believe that Satish Kumar has only kidnapped his brother. A copy of the complaint dated 23.05.2022 is attached herewith as ANNEXURE P-6. Even on persistent efforts to trace

Jagmeet Singh, he could not be traced out and the petitioner and his family came to know that Scooty of Jagmeet Singh was found parked on the bank of the canal and the said Scooty is now in the possession of Satish Kumar Monga alias Babli Monga. It is submitted here that because the petitioner was helping his father in pursuing the complaint submitted by him, Satish Kumar Monga etc. under a new conspiracy started pressurizing the Police to nominate the petitioner and his father in the present mentioned case and the Police of C.L.A staff etc. took away the petitioner from his house thrice and made enquiry into the matter. As the CIA staff and the lower Police officials under the pressure of Satish Kumar Monga etc. were harassing the petitioner, therefore under compelling circumstances, the petitioner approached this Hon'ble High Court by way of filing CWP No. 26106 of 2022 praying therein for issuance of writ in the nature of mandamus directing the respondents therein to issue police clearance certificate (P.C.C.) and further directing the respondents to decide the representation dated 23.05.2022. A copy of the writ petition is attached herewith as ANNEXURE P-7.

11. *That even before that, the petitioner had submitted complaints to Hon'ble Chief Minister, Government of Punjab, State Human Rights Commission, Punjab and higher police officers in respect of harassing the petitioner and non-action on the complaint already submitted against Satish Kumar Monga etc.*

12. *That on 03.09.2024, the petitioner again submitted a complaint to the SSP, Faridkot wherein it has been specifically mentioned that it has come to notice of the petitioner that as a counter blast to the case which the petitioner had filed in the Hon'ble High Court, Satish Kumar Monga again by using his political influence and influence of the Journalists, wanted to get the petitioner implicated in the case by giving false statement, which shall be total injustice with the petitioner and his old father and in this way, Satish Kumar Monga etc. shall be successful in their attempt to save themselves who are having hand in hiding Jagmeet Singh, brother of the petitioner or in killing him. A copy of the complaint dated 03.09.2024 is attached herewith as ANNEXURE P-8."*

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 petitioners and their families.

7. The State's counsel opposes bail and refers to the reply.

8. The complainant's counsel opposed the bail. The victim was also present in Court.

9. It would be appropriate to refer to the following portions of the short reply, which read as follows:

"9. That the progress in investigation of this case was entirely dependent upon the physical condition of victim Mamta Rani,

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which was improved gradually. Since the Investigating Officer observed in victim, the significant recovery from injury, a fresh application no. 1075-5A dated 14-08- 2024 was made to Civil Surgeon, Faridkot to ascertain her medical status. The victim was examined by a Medical Board at Civil Hospital, Faridkot and vide medical opinion No. 2024/12450 dated 23-08-2024 found the victim- Mamta Rani able and fit to make statement.

10. That on 16-09-2024 statement of victim was recorded u/s 180 BNSS and she made unambiguous statement and put allegations against her i) father in law Pal Singh, ii) brother in law Karam Singh- Petitioner and her iii) grand mother in law (already nominated) for causing injuries to her around Six (06) year ago. Copy of statement is annexed herewith as Annexure: R-2.

11. That the statement of victim was also got recorded u/s 183 BNSS before the Ld. JMIC, Faridkot and she reiterated the allegations against present Petitioner among Jaspal Singh and Gurnam Kaur. The co-accused Gurnam Kaur is now dead, accordingly Investigation against present petitioner and co-accused Jaspal Singh has been initiated vide DDR No.22 dated 16-09-2024. Both the accused are absconding to evade their arrest.”

10. The State’s Counsel seeks custodial interrogation and has referred to para 13 of the reply, which reads as follows:

“13. That the custody of present petitioner is wanted in the present case- 91/2018 (supra). The allegations against petitioner are direct and serious in nature. During investigation it also came on record that victim's husband Jagmeet Singh is also missing since 06-10-2018 and DDR No. 10 dated 05-12-2020 to this effect was recorded at P.S Sadar Faridkot. The victim has apprehension that present accused are behind the disappearance of her husband. That, there is an apprehension that, the present petitioner is a clever and cunning person, who would not bring out truth before the Investigation, except during custodial interrogation, in case, the petitioner is admitted on ad-interim bail, it would deprive the prosecution to develop its case. In order to nab the accused, raids were conducted at their respective place of residence, but both the accused are absconding to evade their arrest. Thus keeping in view the facts, circumstances and gravity of offence, petitioner does not deeserve the concession of pre-arrest bail.”

11. The delay and earlier cancellation are no grounds to grant bail because after six years of treatment, when the petitioners recovered, her statement under Section 183 of BNSS (164 CrPC) was recorded, in which there was a clear indictment of the petitioners. Furthermore, the apprehension of the victim about her missing husband and the petitioner’s involvement in his missing, to find out whether he was murdered or has absconded, are required to be investigated, and given the heinous nature of offense and the cruelty of the crime, the only course is the custodial interrogation of both the petitioners.

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12. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioners; this court refrains from doing so.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. **Petition dismissed.** Interim orders are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.