

CRM-M-57623-2023

CRM-M-58499-2023

CRM-M-58584-2023

2024:PHHC:032200

2024:PHHC:032203

2024:PHHC:032208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 06.03.2024

(206)

CRM-M-57623-2023

JASWINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

(208)

CRM-M-58499-2023

JARNAIL SINGH

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

(208-2)

CRM-M-58584-2023

LAKHWINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vipin Mahajan, Advocate for the petitioner(s).

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Inderjit Sharma, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

On 16.11.2023 in CRM-M-57623-2023 and 04.12.2023 in CRM-M-58499-2023 & CRM-M-58584 of 2023, the following order were passed:

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in CRM-M-57623-2023

“Apprehending his arrest in FIR No.51 dated 21.03.2021 registered for offence punishable under Sections 306, 120-B IPC at Police Station Dinanagar, District Gurdaspur, Punjab, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter-alia submits that after the first petition filed by petitioner under Section 438 Cr.P.C. seeking pre-arrest bail was dismissed vide order dated 13.09.2021 (Annexure P-9), the investigating agency has prepared the cancellation report, the operative part of which reads as under:-

"....The suicide note was produced by complainant Jasbir Singh on 22.03.2021 and suicide note written in diary were sent to FSL Mohali for comparison on 03.04.2021. The report has been received. As per which the writing of suicide note and diary are same but during investigation no proof came on record that deceased Davinder Singh has written suicide note and writing on diary is by him. Representation No. 1485 dated 03.08.2021, 391, 06.09.2021, 2307 dated 23.08.2023, 2058 dated 24.07.2021, 412 dated 15.09.2021 were given for conducting enquiry and mark to Sh. Dilbagh Singh PPS SP (PBI) Gurdaspur. The enquiry was conducted and in the enquiry report the accused Jaswinder Singh, Lakhwinder Singh sons of Gurbax Singh, Jarnail Singh S/o Hazara Singh, Gurwinder Kaur wife of Jaswinder Singh, Manjit Kaur wife of Balkar Singh, Sukhwinder Singh alias Baby wife of Daljit Singh were found innocent. Manager Gurbachan Singh S/o Ravel Singh and Rajinder Singh alias Bhatti son of Joginder Singh were found guilty in the enquiry. In the FIR one complaint was given by Inderjit Singh son of Joginder Singh r/o Berian Mohalla Dinanagar regarding innocent of his brother Rajinder Singh alias Bhatti to the SSP Sahib Gurdaspur. On 08.11.2021, SSP Sahib constituted special investigation team for conducting through enquiry. The Special Investigation Team in his report stated as under "Nothing has come on record that Davinder Singh was harassed by anyone. Davinder Singh committed suicide because of family problem. No one is responsible for the death of Davinder Singh." The report of Special Investigation Team dated 31.12.2021 was approved by SSP Gurdaspur. The Investigation of the

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case has been completed and as per report of Special Investigation Team no one is responsible for the death of Joginder Singh....."

Further submits that the FIR in question came into being on 21.03.2021 i.e. the date of occurrence. Suicide note appended along with the present petition as Annexure P-3 was produced by the complainant on 22.03.2021 i.e. the next day and thereafter the second suicide note appended along with the present petition as Annexure P-4 was produced on 24.03.2021. Thus, the concoction cannot be ruled out.

Further submits that the reports from forensic lab have prima-facie opined that the hand-writing on the suicide notice and on the diary appeared to be same but there is no evidence yet on record that the diary with which the hand-writing of suicide note was compared contained hand-writing of the deceased.

Notice of motion.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent/State. Mr. Inderjit Sharma, Advocate appears on behalf of the complainant and prays for time to assist the Court.

Adjourned to 06.03.2024.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting Officer/ Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.

in CRM-M-58499-2023 & CRM-M-58584 of 2023

Apprehending their arrest in FIR No.51 dated 21.03.2021, registered under Sections 306/120-B IPC at Police Station Dinanagar, District Gurdaspur, petitioners seek pre-arrest bail.

Learned counsel for the petitioners *inter alia* relies upon the order dated 16.11.2023 passed in CRM-M-57623 of 2023

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whereby co-accused namely Jaswinder Singh has been granted the benefit of pre-arrest bail which reads as under :-

“Apprehending his arrest in FIR No.51 dated 21.03.2021 registered for offence punishable under Sections 306, 120-B IPC at Police Station Dinanagar, District Gurdaspur, Punjab, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter-alia submits that after the first petition filed by petitioner under Section 438 Cr.P.C. seeking pre-arrest bail was dismissed vide order dated 13.09.2021 (Annexure P-9), the investigating agency has prepared the cancellation report, the operative part of which reads as under:-

"....The suicide note was produced by complainant Jasbir Singh on 22.03.2021 and suicide note written in diary were sent to FSL Mohali for comparison on 03.04.2021. The report has been received. As per which the writing of suicide note and diary are same but during investigation no proof came on record that deceased Davinder Singh has written suicide note and writing on diary is by him. Representation No. 1485 dated 03.08.2021, 391, 06.09.2021, 2307 dated 23.08.2023, 2058 dated 24.07.2021, 412 dated 15.09.2021 were given for conducting enquiry and mark to Sh. Dilbagh Singh PPS SP (PBI) Gurdaspur. The enquiry was conducted and in the enquiry report the accused Jaswinder Singh, Lakhwinder Singh sons of Gurbax Singh, Jarnail Singh S/o Hazara Singh, Gurwinder Kaur wife of Jaswinder Singh, Manjit Kaur wife of Balkar Singh, Sukhwinder Singh alias Baby wife of Daljit Singh were found innocent. Manager Gurbachan Singh S/o Ravel Singh and Rajinder Singh alias Bhatti son of Joginder Singh were found guilty in the enquiry. In the FIR one complaint was given by Inderjit Singh son of Joginder Singh r/o Berian Mohalla Dinanagar regarding innocent of his brother Rajinder Singh alias Bhatti to the SSP Sahib Gurdaspur. On 08.11.2021, SSP Sahib constituted special investigation team for conducting through enquiry. The Special Investigation Team in his report stated as under "Nothing has come on record that

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Davinder Singh was harassed by anyone. Davinder Singh committed suicide because of family problem. No one is responsible for the death of Davinder Singh." The report of Special Investigation Team dated 31.12.2021 was approved by SSP Gurdaspur. The Investigation of the case has been completed and as per report of Special Investigation Team no one is responsible for the death of Joginder Singh....."

Further submits that the FIR in question came into being on 21.03.2021 i.e. the date of occurrence. Suicide note appended along with the present petition as Annexure P-3 was produced by the complainant on 22.03.2021 i.e. the next day and thereafter the second suicide note appended along with the present petition as Annexure P-4 was produced on 24.03.2021. Thus, the concoction cannot be ruled out.

Further submits that the reports from forensic lab have prima-facie opined that the hand-writing on the suicide notice and on the diary appeared to be same but there is no evidence yet on record that the diary with which the hand-writing of suicide note was compared contained hand-writing of the deceased.

Notice of motion.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent/State. Mr. Inderjit Sharma, Advocate appears on behalf of the complainant and prays for time to assist the Court.

Adjourned to 06.03.2024.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C."

Learned counsel for the complainant prays for time to show law that it is for the accused to prove that diary did not contain handwriting of the deceased.

Adjourned to 06.03.2024.

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In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, the petitioners shall join the investigation. They shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.

Photocopy of this order be placed on the connected file.”

2. Ld. State Counsel on instructions from ASI Kamaljit Singh admits that after the cancellation report was filed the petitioners appeared before the Trial Court and have furnished the bail bonds.

3. Mr. Sharma representing the complainant however submits that the cancellation report filed stands rejected by the Trial Court. Thus, keeping in view the seriousness of the allegations it won't be a case for grant of pre-arrest bail.

4. However, Mr. Sharma is not in position to dispute that FIR came into being on 21.03.2021 i.e. the date of occurrence. Suicide note appended along with the present petition as Annexure P-3 was produced by the complainant on 22.03.2021 i.e. the next day and thereafter the second suicide note appended along with the present petition as Annexure P-4 was produced on 24.03.2021. He also does not dispute that though the reports from forensic lab have *prima-facie* opined that the hand-writing on the suicide notice and on the diary appeared to be same but there is no evidence yet on record that the diary with which the hand-writing of suicide note was compared contained hand-writing of the deceased.

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5. Having heard rival contentions of the parties, without commenting on the merits of the case, keeping in view the nature of the allegations against the petitioners and the fact that the alleged suicide note is still under question and the Investigating Agency has found that there is nothing against the petitioners, this Court finds that it is a fit case for making the interim order absolute. Resultantly, orders dated 16.11.2023 and 04.12.2023 are made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.

6. This order should not be treated as "blanket" order. It will not be read granting the petitioners indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioners.

8. The petitioners shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by the petitioners in case the occasion arises.

9. It will be open to the police or the investigating agency to move this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating

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during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

10. Petition stands disposed off accordingly.
11. A copy of this order be kept on the files of other connected cases.

March 06, 2024

Dpr

Whether speaking/reasoned

Whether reportable

:

:

(Pankaj Jain)

Judge

Yes/No

Yes/No