

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

2024:PHHC:019813

1. CRM-M-63056-2023
Reserved on: February 6th, 2024
Pronounced on: February 14th, 2024
Amrik Singh and others
.....Petitioners
Versus
Central Bureau of Investigation, Chandigarh
.....Respondent

2. CRM-M-545-2024
Sahib Singh and another
.....Petitioners
Versus
Central Bureau of Investigation, Chandigarh
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Charanjit Singh Bakhshi, Advocate
with Mr. Mohit Rana, Advocate
for the petitioners.

Mr. Akashdeep Singh, Special Public Prosecutor, CBI.

MANJARI NEHRU KAUL, J.

This order shall dispose of the above-mentioned petitions for grant of anticipatory bail to the petitioners, as they arise out of same case i.e. RC No.0512023S0002 dated 18.01.2023 under Section 120-B read with Sections 304, 323, 341, 342 of the IPC and substantive offence thereof, registered at Police Station SCB, CBI, Chandigarh.

2. **Submissions of learned counsel appearing for the petitioners:-**

(i). That the petitioners have an unblemished record but have been unjustly and falsely implicated in the instant case.

(ii) That as per the initial version in the FIR, which was lodged at the instance of complainant-Narinder Kaur, it was Kuldeep Singh

alias Bhutto and 4/5 unidentified persons, who had allegedly assaulted deceased-Mandeep Singh, on account of which he died; in the initial version of the FIR, the complainant had conspicuously omitted any mention qua the involvement of the petitioners in the alleged crime. The alleged involvement of the petitioners in the crime in question only emerged after the investigation of the case was transferred to the CBI.

(iii) That the investigation carried out by the CBI wrongly and heavily relied upon the statement of one Angrej Singh, who too was allegedly assaulted by the police officials along with the deceased after they both had been taken to the Police Post on 25.05.2020, however, the credibility of the statement of Angrej Singh recorded under Section 164 of the Cr.P.C. stood questionable given the glaring absence of any corroborative medical evidence to substantiate his claims of alleged assault upon him.

(iv) That it was also a matter of record that the deceased never remained in the custody of the petitioners.

(v) That the exculpatory evidence provided by the post-mortem report (Annexure P-6) also delineated the conspicuous absence of any discernible injuries on the person of the deceased, which without doubt, served as a vindication of the innocence of the petitioners;

(vi) That the doctors, who had carried out the autopsy on the body of the deceased, had not been arrayed as accused by the CBI. However, strangely, on the basis of a statement made under Section 164 of the Cr.P.C. by one Om Prakash, a Class-IV employee, who was stated to be present when the post-mortem was conducted upon the deceased, the petitioners had been shockingly implicated.

(vii) That there was complete absence of any cogent evidence

on record, to show any connivance between the petitioners and the doctors.

(viii) That total cooperation had been extended by the petitioners throughout their investigation with the CBI as it was a matter of record that till date, the CBI had not even sought their arrest.

(ix) That however, the petitioners now apprehend their arrest as they have been summoned to face trial vide order dated 19.10.2023 passed by Special Judicial Magistrate, CBI, Punjab, S.A.S. Nagar.

(x) That since challan stands already presented on 04.10.2023 against the petitioners, their custodial interrogation would not be required. Hence, they be granted the concession of anticipatory bail.

To buttress his arguments, learned counsel has drawn the attention of this Court to an order passed in *CRM-M-14326-2023* titled as *Sukhbir S. Badal Versus State of Punjab*, wherein a similar proposition of law was involved and a coordinate Bench of this Court had allowed the petition by granting concession of anticipatory bail to the accused persons therein.

3. Submissions of learned counsel appearing for the respondent.

(i). That during the course of investigation, complainant-Narinder Kaur had categorically alleged that the contents of the FIR lodged by her on 26.5.2020, had been twisted and concocted by the police in order to shield the culpable police officials.

(ii) That the allegations of custodial torture, which led to the death of the deceased, were substantiated by a video footage recorded by a news channel on the fateful day and also a public demonstration staged by the complainant demanding legal action against the guilty

police officials.

(iii) That the factum of the deceased being kept in illegal police custody further stood corroborated from the *roznamcha* entry recorded on 26.05.2020 i.e. on the date of his death at the Police Post, where petitioners were posted, wherein it found mentioned that at about 11:00 AM, deceased Mandeep Singh had been brought to the Police Post by some *sewadars* of the Gurdwara.

(iv) That during investigation, damning evidence had been unearthed, revealing the illegal detention and brutal assault on the deceased and Angrej Singh by the petitioners, which resulted in the health of the deceased deteriorating and his eventual death.

(v) That as per the statement of Om Prakash recorded under Section 164 of the Cr.P.C., he categorically stated that there were visible injury marks present on the stomach as well as the back of the deceased along with a bleeding stomach.

(vi) That the reprehensible conduct of the police, including the clandestine and hurried cremation of the deceased along with the manipulation of records further exacerbated the gravity of the offence committed by the petitioners.

(vii) That despite allegations of tampering with the medical reports/post-mortem report, their existed substantial cogent evidence against the petitioners, for which they did not deserve to be extended the extraordinary concession of anticipatory bail.

(viii) That no doubt, the doctors, who conducted the post mortem, had not been challaned, however, they were subjected to a narco analysis test. Since the narco analysis test was inconclusive, the CBI chose to go ahead by presenting the challan only against the

petitioners; the doctors had however been departmentally proceeded against.

(ix) That in *Sumitha Pradeep Versus Arun Kumar C.K. and another 2022 SCC Online SC 1529*, it was observed that custodial torture resulting in death, warranted stringent legal repercussions, which thus precluded the petitioners from being extended the extraordinary concession of anticipatory bail.

(x) That as the petitioners are police officials and have been accused of manipulating evidence, there existed a palpable likelihood of the witnesses being intimidated or influenced in case they are not taken into custody till the evidence of the two most material witnesses i.e. Angrej Singh and Om Prakash is recorded.

4. Rebuttal by learned counsel for the petitioners:-

(i) That albeit in the *roznamcha*, it found mentioned that deceased had been brought to the Police Post on 26.05.2020, however, it was also a matter of record that he had been handed over immediately on the same day, to one Kuldeep Singh in completely fit and fine condition.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. This Court has meticulously considered the submissions made by learned counsel for the parties. The petitioners through their counsel have vehemently contended that they have been unjustly implicated in the case in hand. *Per contra*, learned counsel for the CBI has strenuously opposed the petitioners' plea, asserting the gravity of the allegations levelled against them particularly in view of the status of the petitioners, who are law enforcement officials.

7. The Hon'ble Supreme Court in *Siddharam Satlingappa Mhetre Vs. State of Maharashtra & Ors.*, AIR 2011 Supreme Court 312 while expounding on the crucial factors, which require to be considered while deciding petitions for anticipatory bail, expanded on the precedent set in *Gurbaksh Singh Sibbia and others Versus State of Punjab*, (1980) 2 SCC 565 and outlined several key considerations. These include assessing the seriousness of the allegations and the role of the accused in the alleged crime, taking into account the antecedents of the accused, evaluate the likelihood of the accused fleeing from justice and examining the potential for the accused to repeat a similar offence. The Apex Court also emphasized scrutinizing the motive behind the allegations and weighing the impact of granting anticipatory bail, especially in cases affecting a large number of people. Additionally, the Apex Court stressed upon the importance of careful evaluation of all available evidence collected against the accused, particularly in cases involving multiple accused or offences under Sections 34 and 149 of the IPC. Furthermore, the Hon'ble Supreme Court highlighted the need to strike a balance between ensuring due process and preventing harassment and unjustified detention of the accused. Lastly, the importance of considering the genuineness of the case of the prosecution and the potentiality of the witnesses being influenced or intimidated by the accused was also emphasized by the Hon'ble Supreme Court.

8. Hence, in the light of the aforementioned parameters laid down by the Hon'ble Supreme Court, this Court would proceed to consider the prayer made by the learned counsel for the petitioners.

9. Initially an FIR No.116 dated 26.05.2020 had been lodged

by complainant Narinder Kaur against one Kuldeep Singh alias Bhutto and 4-5 unidentified persons on the allegations that when deceased Mandeep Singh along with one Angrej Singh had gone to the Gurdwara to partake *langar*, Kuldeep Singh alias Bhutto confronted the deceased and accused him of stealing his motorcycle. On 25.05.2020, at 3 O'clock, yet again Kuldeep Singh alias Bhutto called the deceased to the Gurdwara and along with 4-5 unidentified persons inflicted injuries on the deceased, which proved to be fatal for him leading to his death on the following day. Thereafter, a petition i.e. CRM-M-7789-2020 was preferred before this Court by the father of the deceased, praying for registration of an FIR against several persons, including the present petitioners as well as for transfer of investigation. It was averred in the aforesaid petition that the deceased had in fact died at the hands of police officials, who had subjected him to custodial torture. Pursuant to the orders dated 18.11.2022 passed by this Court, the investigation of the case in hand was transferred to CBI, leading to the registration of the instant case.

10. It would not be out of place to note that custodial deaths represent a reprehensible abuse of power given the vulnerability of detainees and the unequal power dynamics at play. The loss of life while in custody raises grave concerns about accountability/transparency and the very foundation of the rule of law. Consequently, not only the investigation but also the prosecution of the accused officials in such like cases is imperative so as to ensure justice for the victim and his/her bereaved family, and additionally, to uphold the integrity and credibility of law enforcement agency so as to deter future instances of abuse of authority. Any indication of involvement of

the police officials in such a tragic death cannot be overlooked as it does represent a serious breach of their duty and violation of human rights.

11. In the case at hand, serious allegations have been levelled against the petitioners, who admittedly are all police officials, of having illegally detained the deceased and subjecting him to custodial torture, which led to his death. Initially the FIR implicated one Kuldeep Singh alias Bhutto of having caused injuries to the deceased but later, complainant-Narinder Kaur after the death of the deceased, demanded action against the police officials, leading to the registration of the present FIR. Subsequently, the investigation of the case was transferred to the CBI vide order dated 18.11.2022 of this Court. During investigation carried out by the CBI, an eyewitness, PW Angrej Singh, who was also allegedly detained by the police along with the deceased, came forward and gave a statement under Section 164 of the Cr.P.C. implicating the petitioners, in the assault on himself as well as the deceased. No doubt, learned counsel for the petitioners did vehemently assail the investigation carried out by the CBI by arguing that the petitioners had never met the deceased or detained him in their illegal custody, however, he was unable to controvert that there was an entry in the *roznamcha* of the Police Post dated 26.05.2020, indicating not only the presence of the deceased there but he having been brought to the Police Post by some *sewadars* of the Gurdwara. Learned counsel for the petitioners, however, did also assert and reiterate the version brought forth before the case was handed over to the CBI that the deceased had been handed over to Kuldeep Singh in an absolutely fit condition on the same day i.e. 26.05.2020, coupled with the fact that

there was absence of injuries during post mortem examination, which clearly demolished the case of the prosecution that the deceased had been subjected to any kind of custodial torture. However, these submissions of the learned counsel for the petitioners are contrary to the statement made under Section 164 of the Cr.P.C. by one PW Om Prakash, who was present along with the doctors when the autopsy was conducted on the dead body of the deceased. As per the statement recorded under Section 164 of the Cr.P.C., Om Prakash stated that he had not only seen visible injuries on the person of the deceased but some internal bleeding was also present when the post mortem was conducted upon the deceased. Furthermore, the doctors, who carried out the post mortem, were also subjected to narco analysis test and as not disputed, departmental action stands initiated against them.

12. The evidence collected by the CBI does *prima facie* indicate an attempt by the petitioners to have manipulated the circumstances of the crime committed within the Police Post.

13. Furthermore, the criminal culpability of the petitioners-police officials, who are implicated in custodial death of a person, is profoundly grave and cannot be understated. In the present case, as per the allegations against the petitioners, who admittedly were posted at the Police Post concerned, where the deceased was allegedly subjected to illegal detention and custodial torture resulting in fatal injuries, are exceptionally serious. Allegedly, in an attempt to conceal their actions, the police including the petitioners endeavoured to fabricate a wholly false narrative and evidently sought to obliterate all evidence of the inflicted injuries upon the deceased.

14. Furthermore, there does exist a compelling likelihood of

the petitioners exercising undue influence over the two material witnesses i.e. PW Angrej Singh and Om Prakash, to dissuade them from deposing during the trial.

15. Given the circumstances, considering not only the mode and manner in which the alleged crime was carried out but also the brazen attempts to conceal the alleged crime, the petitioners do not deserve the extraordinary concession of anticipatory bail.

16. Accordingly, both these petitions stand dismissed.

17. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

February 14th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes