

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31617-2024
Reserved on: 06.03.2025
Pronounced on: 25.03.2025

Balwinder @ Jinder ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Edward Augustine George Masih, Advocate and
Mr. Stephan Mainesih, Advocate for the petitioner.

Mr. Sukhdev Singh, A.A.G, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
38	04.05.2024	Dera Baba Nanak, District Gurdaspur	302, 34 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. In the bail application, the petitioner is silent about criminal antecedents. However, as per para 9 of the status report dated 12.07.2024 filed by the State, the accused has no criminal antecedents.
3. The facts and allegations are being taken from the translated copy of FIR (Annexure P-1), which reads as follows:

“Statement of Manju wife of Late Mana Masih, resident of Mohalla Budhanshah, Police Station Kalanaur, aged about 42 years, Mobile Number 95179xxxx. Stated that I am a resident of the above said address and is house wife. I am a married woman and I have 3 children, out of which Priyanka is my eldest daughter of age about 24 years and is married, second is son namely Sunny Masih of aged about 20 years is unmarried and the youngest daughter Monika whose age is about 19 years. About 7 months ago, the daughter of my brother-in-law (Jeth) namely Manpreet Kaur wife of Jagga Singh, resident of Thetharke Khurd, who took my daughter Monika with her, because I have got solemnize my second marriage due to the dispute with my husband Mana Masih and my three children of first marriage went with their father

Mana Masih and because of the death of my husband Mana Masih my daughter Monika gone with my brother-in-law's daughter Manpreet Kaur. My brother-in-law's daughter Manpreet Kaur married my daughter Monika with Suraj Masih son of Darshan Masih, resident of Khasawali, married about 6 months ago with Christian rituals. Her husband Suraj Masih is a truck driver and mostly lives outside the house and he usually drives at Sri Nagar and my daughter Monika lives in the house alongwith her mother-in-law Balwinder alias Jinder, sister-in-law Khushi, father-in-law Darshan Masih and her grandmother-in-law. My daughter Monika was living happily in her in-laws house and since about past 01 month my daughter Monika's mother-in-law Balwinder alias Jinder used to harass my daughter Monika to have illegal relations with people and my son-in-law Suraj Masih came to his house about 4/5 days ago, my daughter Monika had informed him about his mother's behavior, on which both of them had in conflict with each other. In this regard, my brother-in-law's daughter Manpreet Kaur, two days ago went to my daughter Monika in Village Khasawali, my daughter Monika told to Manpreet about her mother-in-law and Suraj and thereafter my brother-in-law's daughter Manpreet Kaur, came back to her house after explaining to her who also told me the whole story on mobile phone. I also sometimes went to meet my daughter Monika in her in-laws Village Khasawali. My son Sunny Masih used to work as a Palledar at Anaj Mandi, Dera Baba Nanak and after work he usually used to go to his sister Monika's house in Village Khasawali. Today on 04.05.2024 at around 11:00 AM, my son Sunny Masih informed me on the phone that his sister Monika, her husband Suraj Masih son of Darsan Masih, mother-in-law Balwinder alias Jinder wife of Darsan Masih, father-in-law Darsan Masih son of Budha Masih, resident of Village Khasawali in connivance with each other beaten my daughter Monika at last night and caused her death and we have not even been informed and we also got to know this in morning at around 10:00 AM, upon which I alongwith my family reached at the house of my daughter Monika's in-law Village Khasawali, then my daughter was lying there dead. There were injuries on her body. I am sure that the above mentioned persons in connivance with each other had beaten and murdered my daughter Monika.”

4. 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 his family.
5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the stats report dated 12.07.2024, which read as follows:

“6. xxx xxx

A. Role of the petitioner

Monika daughter of the complainant was killed by Suraj Masih, Balwinder (Petitioner) and Darshan Masih by giving her beatings last night. When she alongwith her family reached at her in-law home where she found that her daughter has been killed and she was even having injury marks on her body and thus it is sure that she has been killed. The petitioner/accused has been specifically named in the FIR. Specific allegation of causing injury to deceased Monika by petitioner/accused alongwith her husband and son has been there. The allegations against the petitioner/accused is serious one.

B) The evidence against the petitioner

The statement of the complainant of the case and the statements of Manpreet Kaur W/o Jagga Singh R/o Thetherke and Sunny Masih S/o Darshan Masih residents of Khasawali got recorded during investigation of the case by Investigating Officer under Section 161 CrPC.”

REASONING:

7. Monika, who was married to Balwinder @ Jinder, one of the petitioners, had expired within 07 years of marriage. Initially, the post-mortem report hints any cause of death. Subsequently, the matter had come up before this Court and this Court had asked the PGI, Chandigarh to give a fresh report about the cause of death, it is for the reason that Monika was just 19 years of age and there was no allegation of any pre-existing medical condition. Now, a Board of Directors, PGI, Chandigarh has given a report, as per which, they are of the opinion that the death was not natural. However, the opinion is given after exhumation of the dead body and based on photographs. It would be appropriate to extract the final opinion given by the team of doctor, which reads as follows:

“The exhumation was conducted in the above case as the previous medical board was unable to definitively ascertain the cause of death from the initial post-mortem examination. While they suggested a natural manner of death, possibly of cardiac origin, no conclusive evidence supporting this hypothesis was documented.

Pursuant to the High Court's direction, the medical board at PGIMER, Chandigarh carried out the exhumation, reviewed all relevant documents, and examined some photographs submitted by the police. The preserved heart from the first autopsy was also reexamined and no valvular, vascular,

inflammatory or infective pathology was observed vide biopsy no S-28410/2024 dated 14.10.24.(annexure-1F)

The medical board also submitted some samples for chemical and histopathological analysis collected during exhumation. The exhumation report was also submitted to the police. The chemical analysis report NO.CFSL(CHD)/2782/TOX/616/24/18 dated 30-01-25 ruled out any poisoning. (annexure-2F) The histopathological analysis of the exhumed samples was inconclusive due to autolytic changes, which are consistent with postmortem decomposition following a prolonged period since death(Biopsy no S-36268/2024 dated 11/01/2025). (annexure-3F)

During exhumation, the right side of the neck and the right forehead region showed areas of suspected extravasation of blood. Due to autolysis, the inconclusive histopathology limits definitive conclusions but does not negate the significance of observed suspected injuries. The photographs submitted by the police, enlarged for clarity, show two reddish marks on the forehead, highlighted by black arrows.(annexure-4F) These could be antemortem injuries. Given the suspected injuries observed on the forehead and the neck, it is imperative to consider the possibility of an external traumatic event. During the exhumation, it was discovered that the cranial cavity was not examined in the initial post-mortem. Without an intracranial evaluation, any potential traumatic brain injury that may have contributed to death remains unexamined.

Such sudden death in a young female with no pre-existing conditions and in the absence of any detectable cardiac pathology following histopathological examination, makes a cardiac cause of death highly unlikely. Additionally, the lack of clear pathological findings in other organ systems further diminishes the likelihood of a natural death. Since poisoning has been ruled out, and no systemic disease was identified, the presence of injuries becomes even more relevant in the forensic interpretation of this case.

Given the six-month decomposition period, forensic limitations are expected. Though the exact cause of death remains undetermined due to decomposition and an inadequate first examination, the injuries observed on the body, along with the absence of a cardiac cause, strongly suggest that the possibility of unnatural death cannot be ruled out.”

8. In the light of the final opinion given by the board of doctor, it is neither a case for custodial interrogation for those petitioners, who have not been arrested and the present petitioner, who was granted interim protection, as such, there is no reason to discontinue the same.

9. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

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. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner's complying with the following terms.

14. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any

witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

19. A certified copy of this order would not be needed for furnishing bonds, 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.

20. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

25.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.