

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52422-2024
Reserved on: 06.03.2025
Pronounced on: 25.03.2025

Darshan Masih ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Stephan Masih, Advocate,
for the petitioner.

Mr. Sukhdev Singh, AAG, 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 incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. Vide order dated 02.12.2024, the petitioner was granted interim bail, which continues to date.
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. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and 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 status report, which read as follows:

“7. Role of the Petitioner

The role of the petitioner, Darshan Masih, in the death of Monika, a 19-year-old who had been married only seven months, is evident from the circumstances and statements on record. As a cohabiting member of the household, the petitioner is alleged to have been fully aware of and complicit in the hostile environment Monika endured in her matrimonial home. According to the complainant, the deceased faced sustained harassment and coercion from her mother-in-law i.e. Balwinder Kaur @ Jinder with the petitioner's clear knowledge. The deceased had confided in the complainant that her mother-in-law pressured her into inappropriate relations. The complainant's account is further supported by Monika's cousin, Manpreet Kaur, who stated that two days before Monika's death, she visited Monika at her matrimonial home. During this visit, Monika disclosed ongoing harassment from both her husband and mother-in-law.

It is submitted that investigation in the present case remains ongoing, with the primary accused i.e. Suraj Masih and Balwinder Kaur @ Jinder, yet to be apprehended. Their arrest is crucial to fully unravel the alleged conspiracy and clarify each individual's role in Monika's death. The final medical opinion is also pending, with PGIMER, Chandigarh, as additional information to complete its assessment of Monika's cause of death is being provided by the investigating agency.

8. Evidence against the Petitioner:

The evidence against the petitioner at this stage primarily comprises the statements of the complainant and Manpreet Kaur, who have both alleged that the deceased had faced sustained harassment faced within her matrimonial home. According to the complainant, Monika, just 19 years old, confided that she was subjected to coercion and mistreatment by her mother-in-law, Balwinder Kaur @ Jinder with the petitioner allegedly aware of this environment. Manpreet Kaur corroborated this, stating that Monika disclosed ongoing harassment by both her mother-in-law and husband just two days before her death. Although Monika's Post-Mortem Report indicated no visible external injuries, the final medical opinion on her cause of death remains pending. The petitioner's own disclosure statement places him as an observer of the discord in the household. Moreover, the main accused, Balwinder Kaur @ Jinder and Suraj Masih, are yet to be apprehended, and their arrest is crucial to uncover the full scope of the conspiracy and complete the investigation.”

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. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although 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 the same for the bail stage.

10. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

CONDITIONS:

11. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. In Mohammed Zubair v. State of NCT of Delhi, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon’ble Supreme Court holds that “The bail conditions imposed by the Court must not only have a nexus to the purpose that

they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed.”

12. The concerned Judicial Magistrate/Trial Court is authorized to delete, modify, or relax any of the conditions mentioned above and is competent to do so following the law.

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 allowed** in terms mentioned above. Interim order dated 02.12.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

25.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.