

Law Today Live Doc. Id. 15676

PUNJAB AND HARYANA HIGH COURT

Before: Gurvinder Singh Gill, J.

CRM-M-38142-2020 (O&M)

Decided on: 04.12.2020

Balkar Singh

Petitioner

Versus

State of Punjab

Respondent

Present:

Mr. Preetinder Singh Ahluwalia, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(Proceedings conducted through video conferencing)

Indian Penal Code, 1860 (45 of 1860), Section 302, 34 – Code of Criminal Procedure, 1973 (2 of 1974), Section 439 – Murder case – Regular bail – It will be debatable as to whether it is a case of suicide or murder – In any case, since the petitioner has been behind bars since the last more than 1 year and happens to be a cousin of husband of the deceased and maintaining a separate house and mess, though in adjacent premises, and is not stated to be involved in any other case, further detention of the petitioner will not serve any useful purpose – Petition accepted.

(Para 7, 8)

GURVINDER SINGH GILL, J. (ORAL) –

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.212, dated 19.11.2019, Police Station Sadar Samana, District Patiala, under Section 302 and 34 IPC.

2. The FIR was lodged at the instance of Malkiat Singh, wherein it is alleged that his daughter Gagandeep Kaur was married to Jagtar Singh about three years back. It is alleged that on 19.11.2019 he received information from Taranjit Singh, who was mediator to the marriage, to the effect that Gagandeep Kaur had received an “attack”. Pursuant to receipt of said information the complainant informed the Sarpanch where he met Madan Singh Nambardar father of Sarpanch and while taking him along he went to the matrimonial home of his daughter Gagandeep Kaur, where Gagandeep Kaur’s dead body was found lying on a cot in the porch, which was covered with a cloth. When the complainant tried to take off the cloth from the dead body, he was stopped by his daughter’s mother-in-law but he being emotional took off the cloth and saw there were marks around the neck of complainant’s daughter and it appeared that Gagandeep Kaur had been strangled to death. The complainant suspected that his daughter had been killed by his son-in-law Jagtar Singh, mother-in-law Manjit Kaur and a cousin of his son-in-law namely Balkar Singh (petitioner).

3. The learned counsel for the petitioner has submitted that it is a case where there is no eye witness and that the accused has been nominated simply on the basis of suspicion. It has further been submitted that the

petitioner, in any case, though related to the husband of the deceased, is residing separately in an adjacent house as would be evident from the site plan annexed with the report under Section 173 Cr.P.C.

4. Learned counsel has further submitted that in fact even the medical evidence does not support the case of prosecution as regards strangulation inasmuch as the cause of death has been opined to be asphyxia and a ligature mark were seen around the neck of the deceased, which would rather indicate that it is a case of suicide and not a case of murder.

5. Opposing the petition, the learned State counsel has submitted that since it is a case of unnatural death and that certain marks were seen around the neck of the deceased which stands affirmed from medical evidence where a ligature mark was found and the petitioner is specifically named in the FIR, it cannot be said that it is a case of suicide.

6. I have considered rival submissions addressed before this Court.

7. A perusal of the site plan does indicate that the house of petitioner and the house of the husband of the deceased, though adjacent, are infact separate independent houses having a common wall in between. The building plan of both the houses is absolutely identical and it does appear that both the houses have separate mess.

8. Having regard to the medical evidence, it will be debatable as to whether it is a case of suicide or as to whether it is a case of murder. In any case, since the petitioner has been behind bars since the last more than 1 year and happens to be a cousin of husband of the deceased and maintaining a separate house and mess, though in adjacent premises, and is not stated to be involved in any other case, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case as the same have been made for the limited purpose of deciding the instant bail petition only.

Petition allowed.
