

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

CRM-M-31518-2022

Date of Decision: 13.09.2022

Kalyani Singh

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

CORAM: HON'BLE MR.JUSTICE SURESHWAR THAKUR.

**Present: Mr. R.S. Cheema, Senior Advocate with
Mr. Sartej Singh Narula, Advocate,
Mr. Sandeep Sharma, Advocate,
Mr. Arshdeep Singh Cheema, Advocate,
Mr. Gurinder Singh, Advocate and
Mr. Satish Sharma, Advocate for the petitioner.**

Mr. Rajeev Anand, Standing Counsel for respondent-CBI.

**Mr. R.S. Bains, Senior Advocate with
Ms. Aarushi Garg, Advocate for the complainant.**

SURESHWAR THAKUR, J.

1. Through the instant petition cast under Section 439 of the Code of Criminal Procedure, the petitioner claims relief of hers becoming admitted to regular bail in case FIR RC No. 0512016S0004 dated 13.4.2016, under Sections 302, 120-B, 201 of Indian Penal Code and under Section 25/27/54 of Arms Act, registered at Police Station Special Crime Branch, Central Bureau of Investigation (CBI), Chandigarh. It is relevant to mention that the investigations into the instant crime event, were initially entered into by the Chandigarh Police but subsequently, through an order

No. 134-HIII(2)-2016/1339 dated 20.1.2016 of the Home Secretary, Chandigarh Administration, the investigations were transferred to the CBI, resultantly, the crime event became registered with the Special Crime Branch, CBI, Chandigarh.

CONTENTS OF FIR

2. The crime event, occurred near Kothi No. 1001, Sector 27-B, Chandigarh. An intimation was given by the Sub Inspector concerned to the Station House Officer (SHO), Police Station, Sector 26, Chandigarh that when the police party was present in the area of Police Station, to spot attend, in the Government vehicle bearing registration No. CH01G1-6243, then they at about 10 PM, received an intimation through wireless message in the Police Station, that a person is lying near Kothi No. 1001, Sector 27-B, Chandigarh. On receipt of the said information, the SHO of the Police Station concerned along with ASI besides being accompanied by other police officials arrived at the crime site in the Government vehicle, where, it was found that a dead body of a man, aged about 34/35 years was lying in a pool of blood on a pedestrian track in the green park adjoining Kothi No. 1015, Sector 27-B, Chandigarh. He was noticed to be carrying injuries on his left cheek and chest and blood was oozing from the above injuries. The police suspected that he had received gun shot injuries. Since the spot inspection revealed that an offence under Section 302 of the Indian Penal Code has been committed, therefore, a ruqa was sent from the crime site to the Police Station concerned for registration of a case under Section 302 of the Indian Penal Code against unknown persons.

FACTUAL BACKGROUND

3. It is but obvious that since then though the CBI on transfer to it,

of the relevant investigations, had entered into investigations in respect of the above crime event, but obviously for almost more than six years therefrom, the CBI did not make any headway in solving the murder of deceased Sukhmanpreet Singh alias Sippy Sidhu. It was only on 15.6.2022 that the present petitioner was arrested, on the basis of certain inculpatory evidence as became collected by the CBI. This Court would refer to and would also hereafter adjudicate upon the validity or otherwise of the inculpatory evidence collected against the present petitioner by the CBI.

PROCEEDINGS BEFORE THE COMMITTAL COURT

4. During the course of investigations into the petition crime event, the then Investigating Officer had on 7.12.2020 instituted an untraced report before the learned committal Court concerned. The relevant portions thereof, as occurring in paragraphs 16.31 to 16.65 thereof, become extracted hereinafter:-

“16.31 Investigation has revealed that in April-May 2015, Sippy Sidhu again managed to send the objectionable pictures of Ms. Kalyani Singh over the mobile phone of her friends. On enquiry by her friends, Ms. Kalyani Singh advised them to delete the same as it is a morphed pictures suspecting the act of Sippy Sidhu. Ms. Kalyani Singh also raised objections with the mother of Sippy Sidhu, who assured Ms. Kalyani Singh that she would arrange marriage of Sippy Sidhu. However, Ms. Kalyani Singh told her that she do not want to marry with Sippy Sidhu. Even at this juncture, Sippy Sidhu and Ms. Kalyani Singh were in touch by meeting each other and also exchanged e-mails after the incident of 27.11.2014, Ms. Kalyani Singh remained in touch with Sippy Sidhu over his email id sippysidhu@gmail.com from her mail id

singh.kalyani26@yahoo.com.

- 16.32 Investigation has revealed that in the month of April-May, 2015, Sachin Bhatia, a known to Ms. Kalyani Singh received obscene photographs of Ms. Kalyani Singh from mobile number 8198834127 which continued till July, 2015, however, he could not get the identity of the sender as Ms. Kalyani informed him not to respond to that number. Ms. Kalyani Singh also disclosed that her marriage could not be materialised as mother of Sippy Sidhu does not want intercaste marriage.
- 16.33 Investigation has revealed that Ms. Kalyani Singh was frequent visitor to the office of Sippy Sidhu upto the month of August, 2015. Ms. Kalyani Singh also used to assist Sh. Sippy Sidhu in his office. Sometime Ms. Kalyani Singh also used to take the mobile phone of employees of Sippy Sidhu to call him, when he was not available in the office.
- 16.34 Investigation conducted has disclosed that on 17.08.2015 night 3-4 suspects found to have visited outside the residence of deceased Sippy Sidhu and left the place in a small car. They left behind a black colour pouch containing a spiral diary in which the name, address and mobile number of Sippy Sidhu along with Bhupinder Singh @ Yuvraj were mentioned. A complaint was lodged with Punjab Police at Mohali. No clue of suspects could be worked out in spite of immediate action of Mohali Police.
- 16.35 Investigation has revealed that in the spiral diary left by the suspects on 17.08.2015 night outside the residence of deceased Sippy Sidhu was having the mention of date as 07.07.2015, u/s 302, Bhiwani, Dinesh and mobile No.9999996166 besides the names of deceased Sippy Sidhu and his friends. The

perusal of records of District and Sessions Judge, Bhiwani has revealed that a total of 32 murder cases were under trial as on 07.07.2015 in five different courts of Bhiwani out of which only 10 cases were fixed for hearing on 07.07.2015. The information about the cases u/s 302 IPC pending at Bhiwani Courts were scrutinized however the link of accused persons in that cases could not be established. Besides above the other murder cases pending in Bhiwani with regard to heinous crime, rewarded criminals and most wanted criminals involved in the offences of kidnapping, ransom, murder and parole jumpers was obtained. No link of any criminal including the name Dinesh which was mentioned in the spiral diary could be ascertained. The mobile No. 9999996166 mentioned in the diary found to be of Sh. Sumit Gupta r/o Shakarpur, Delhi-92, who is running a Photostat and Telecom shop at Shakarpur, Delhi including selling and recharging of mobile phone of different service providers. He denied having knowledge of any person in the name of Dinesh or a person of Bhiwani etc.

- 16.36 Investigation has revealed that on 20.08.2015, GF-1 dropped Sippy Sidhu at Railway Station, Chandigarh to board Shatabdi train to Delhi. Sippy Sidhu stayed with GF-II at Delhi for a night. Next day, on 21.08.2015 at 13:45 hrs, he boarded the flight no.9 W 122 from Delhi to London.
- 16.37 Investigation conducted has revealed that Sippy Sidhu and Ms. Kalyani Singh exchanged numerous mails up to 14.09.2015 including the period he remained abroad. During the exchange of above E.mails both shares the incident of some suspects detected outside the house of Sippy Sidhu to which Ms. Kalyani Singh advised him to be vigilant as he is

being followed.

- On 29.08.2015, Sippy Sidhu admitted his wrong doings with reasons and told her about his seriousness to marry her and asked her if she found someone else now. He offered her to clear the things once and for all and he will make Ms. Kalyani with GF-I to clear the things face to face. Ms. Kalyani also replied him that she and her family had seen him with GF-I often.
- On 30.08.2015, during exchange of mails, Sippy Sidhu informed that news is, Aunty finding guy in High Court, you found him, I knew it and further Sippy informed her that he had ended all ties with GF-I as he cannot afford to loose Kalyani over friendship of GF-I.
- On 07.09.2015, Ms. Kalyani Singh sent E.mail to Sippy Sidhu asking about his well being and journey plan as per following text:
 “Hi How are u? How is everyone? I am ok. How is ur trip going? How was the awards function? Any promotion of the firm? And otherwise. How is ur tour going on the professional forefront? Hope you are having fun. Do take care of your back and do not over exert yourself.”
- On 08.09.2015, in reply to the above E.mail of Ms. Kalyani Singh, Sippy Sidhu replied as under:
 “Hi I am fine here. Awards went well. I am leaving for Toronto on 10. I will be in India on 16th Sep. then I will stay there for couple of weeks and then again i hv to leave abroad for few months. How r u. Thanks.”

16.38 Investigation has revealed that during his visit to Canada, Sippy Sidhu participated in the sports award function on 4th September, 2015 organised by his friend Sh. Ramandeep Singh Goldy in UK. Sippy

Sidhu stayed with him upto 7th September, 2015. During his above visit, Sippy Sidhu told his friend Raman Deep Goldy that he is facing some threats as some persons were seen outside his residence and is suspecting threat to his life. Thereafter, Sippy Sidhu went to Toronto to meet his friends and stayed there upto 15.09.2015. He returned to India on 16.09.2015 by flight No. 9W 229.

16.39 Investigation has revealed that on his return to India on 16.09.2015, Sippy Sidhu was received by GF-II at Delhi and he stayed with her upto 18.09.2015 morning. He left Delhi by Air on 18.09.2015 morning and was received by GF-I along with her father at Chandigarh Airport. She dropped him at his residence. On the same day at about 11.00 AM Sippy Sidhu again met GF-I at her factory and planned to watch a movie 'Everest' at Elante Mall, Chandigarh. At about 8.15 PM, when Sh. Sippy Sidhu along with GF-I was present in his car at Industrial Area, Chandigarh, he received 02 calls over his mobile No. 9888810001 from Mobile No. 8558073647, after which he was perplexed and decided to cancel the movie programme, though they had advance booking of the movie show at Elante Mall, Chandigarh. Both came back to Mohali. At about 2100 hrs, on 18.09.2015 night, the mobile location of deceased was seen at Sector 27, Chandigarh.

16.40 Investigation has revealed that as per CDR of mobile number 9888810001 of Sippy Sidhu, two calls were received to him in the presence of GF-I when his location was at Industrial Area, Chandigarh. The said calls were received from mobile number 8558073647 of Harishankar Gupta, a Mehndi Applier at Sector 19, Chandigarh. It is pertinent to mention here that at about 8:15 PM when Sippy Sidhu

received a phone call while sitting in his car beside GF-I, he responded to the said call as "*Main karda han Main Karda han*" this word was audible to GF-I. Thereafter, he again received a call, in order to attend the same he went out of the car and attended the same while standing back side of the car. When Sh. Sippy Sidhu came back to his car, he was perplexed and on being asked by GF-I, he explained by saying "*Meri tan fatt gayi si*"I. Sh. Sippy Sidhu further falsely explained that his brother Sh. Jippy Sidhu along with another Advocate were supposed to appear in the court however they could not do so and daughter of his client was lodged at Police lockup at Sector 19, Chandigarh. Now, the mother of the client is blaming by saying "*meri kudi di life kharab kar diti h, te main chhadna ni*". While moving towards Elante Mall Light Points from the furniture shop he was very nervous and upset and told GF-I that now his reputation is at stack. Thereafter, he cancelled the movie programme and came back to Mohali. Accordingly, he dropped GF-I at her house. Thereafter, at about 21:06:33 hrs, the location of mobile phone of deceased is found to be at Sector 27, Chandigarh before his return to his home location at 21.48.24 hrs on 18.09.2015. No girl/female was lodged in police lock up at PS Sector 19, Chandigarh as on 18.09.2015.

- 16.41 Investigation has revealed that Sh. Hari Shankar Gupta was working as mehendi applier in Sector 19, Chandigarh. On 18.09.2015, he was present in Sector-19, Chandigarh. At about 8:15 PM, a girl of the age of about 25 years, good looking, bearing black Top and Jean Pant, a dupatta of dark colour/black was wrapped around her neck, hair were open upto shoulders, normal structure, height of 5'-1"

or 5'-2" approached him and asked "*Mera Phone Ghar Chhut Gaya Hai, Mukhe Phone Karwa Do*". On her request he gave his mobile phone to said girl who after completing the call returned his mobile after deleting the number dialed by her. The mobile number of 8558073647 of Sh. Hari Shankar Gupta was used to make call to Sippy Sidhu over his mobile No. 9888810001 at 20.11.26 hrs by an unknown girl. This call was the same call which was attended by Sippy Sidhu in the presence of GF-I on 18.08.2015.

16.42 Investigation conducted has disclosed that Computerized sketch of suspect girl who made calls from Sector 19, Chandigarh on 18.09.2015 to deceased Sippy Sidhu has been prepared on the pointing out of above Sh. Hari Shankar Gupta, which indicates towards similar facitive of a girl as of Ms. Kalyani.

16.43 Investigation conducted has disclosed that on 18.09.2015 at 20:55:21 hrs, another call of 13 seconds was received over the mobile phone 9888810001 of deceased Sippy Sidhu from the mobile number 9216910382 which was later on identified as of Sh. Ballnder Kumar, who was present in the market at Sector 19, Chandigarh for purchase of clothes. He parked his motorcycle opposite to Manchanda Book Depot in Sector 19, Chandigarh where one girl of height of 5'3" wearing black top and jeans pant, having a dupatta around her neck approached him from the back and requested for a phone call to be made from his mobile to which he agreed and handed over his mobile phone to said unknown girl. The said girl made a call from his phone to someone. The description disclosed by above Ballnder Kumar is observed similar to that girl who approached Sh. Hari Shanker Gupta above. 03

calls from mobile number 8558073647 of Hari Shankar Gupta at 20:11:26 hrs for 7 seconds, at 20:11:52 hrs for 4 seconds and 20:12:25 hrs for 41 seconds and one call from Mobile No. 9216910382 of Ballnder Kumar were made over the mobile phone of Sippy Sidhu at 20:55:21 hrs after borrowing a phone adopting similar modus operandi. There is strong apprehension that the same girl approached deceased Sippy Sidhu from Sector 19-C, Chandigarh during the period 20:11:26 hrs to 20:55:21 hrs on 18.09.2015, the impact of calls of suspect girl from Sector 19-C Market, Chandigarh was so strong that Sippy Sidhu reached in the location of Sector 27, Chandigarh at 21:06:33 hrs on same evening after dropping GF-I at her house at Mohali. The mobile location of deceased is found at Sector 27, Chandigarh at 21:06:33 hrs on 18.9.2015 night, he returned to the location of house at 21:48:24 hrs.

- 16.44 Investigation conducted has disclosed that CCTV footage of shop of M/s Thapar Shoes, Sector 19, Chandigarh were obtained in which it was seen that a girl was moving swiftly during the relevant time on 18.09.2015. The concerned CCTV footage received from Chandigarh Police in DVD (sealed) along with CCTV footage collected of # 1001, Sector 27, Chandigarh were sent to CFSL, Chandigarh for frame to frame photograph to get a clear view of the said girl for her identification. It is to mention here that a brief CCTV footage of 22 seconds of CCTV installed at # 1001, Sector 27, Chandigarh was taken on record of police file by Chandigarh Police whereas data of DVR of CCTV at # 1001, 1049 and 164 were taken in pen drive by the police. The loss of CCTV footage data of # 1001 and 1049 at Sector 27, Chandigarh hampered the investigation to proceed further to

identify the killer, vehicle and their accomplices etc.

16.45 Investigation conducted has disclosed that on 18.09.2015 after arrival of Sippy Sidhu at Chandigarh from the house of his girl friend at Delhi, he exchanged phone calls with numerous persons for the purpose of his office building, installation of CCTV Cameras and other miscellaneous routine matters. No call/E.mail was exchanged over the mobile/E.mail of Ms. Kalyani.

16.46 Investigation has revealed that on 18.09.2015, Ms. Kalyani Singh in black and white saree was seen in office of Sippy Sidhu at 4th Floor by the person present in the building. At that time, both Ms. Kalyani and Sippy Sidhu were discussing over some issue. Ms. Kalyani Singh was speaking in loud voice and Sippy Sidhu was pacifying her. On 19.09.2015, Ms. Kalyani Singh again seen in the office of Sippy Sidhu. After Ms. Kalyani Singh left the office on 19.09.2015, Sippy Sidhu was upset over the behaviour of Ms. Kalyani Singh, though location of mobile of Ms. Kalyani Singh did not corroborate so.

16.47 Investigation has disclosed that on 19.09.2015, location of mobile of Sippy Sidhu up to 13:03:51 hrs was at his house. During this period, he received two calls from GF-I at 08:47:07 hrs and 13:03:51 hrs, he also received two calls from Ms. Pawan Kaur of Sai Aasra Paraplegic Rehab Centre, Chandigarh, an NGO at 09:09:30 hours and 12:53:05 hrs, two calls with Jatin Batra at 10:21:31 hrs and 10:34:00 hrs. Two calls of Jitender of CCTV at 10:36:58 hrs. After 13:03:51 hrs to 16:26:30 hrs, Sippy Sidhu remained at his office. Thereafter, at 18:20:04 he was in the location of his house. After 18:32:04 hrs, he was found in the location of Sector 27, Sector 19, Sector 16, Chandigarh upto 21:03:40 hrs and thereafter

returned to the location of his house at 21:26:02 hrs. Thereafter, he remained at the location of his house from 21:26:02 hrs on 19.09.2015 to 13:00 hrs on 20.09.2015. During this period, he exchanged calls with his friends/person in his circle like GF-I, Harshita, GF-IV besides and persons involved in office working.

16.48 Investigation conducted has disclosed that on 20.09.2015, Sippy Sidhu attended a bhog ceremony along with his mother at Sacha Dhan Gurudwara, Mohali and remained there up to 1 PM. GF-I called Sippy Sidhu on phone and invited him for family lunch at Sector 26, Chandigarh. Sh. Sippy Sidhu had lunch with the family of GF-I at Swagat Restaurant at about 1.30 PM. During lunch at Swagat Restaurant, he was excited over his plan to purchase a house at Canada. After finishing lunch at Swagat Restaurant both went to their respective houses. In the evening Sh. Sippy Sidhu took GF-I in his car to Industrial Area for purchase of furniture but the shop was closed. While coming back to Mohali from Industrial Area, Chandigarh, Sh. Sippy Sidhu planned to watch already decided the movie 'Everest' at 4.20 PM show at North Country Mall, Mohali. After watching movie at 7 PM, Sh. Sippy Sidhu received a call from mobile number 9815108889 of Sh. Angrez Singh, r/o village Gandhar, PS Lakher Wali Mandi, Tehsil and Distt. Muktsar, Punjab who was known to Sippy Sidhu from his college days. Sippy Sidhu dropped GF-I at her home. Thereafter, GF-I sent him last messages through WhatsApp at 7:29 PM mentioning "*Love your sweetie*".

16.49 Investigation conducted has disclosed that Sh. Angrez Singh, a college friend of Sippy Sidhu discussed about a murder case of his village which

was confirmed from the recording of calls in his mobile phone. Nothing incriminating relevant to the case was discussed during this phone conversation. Shri Angrej Singh preserved the recording of his conversation because he was soon called by the local police as well.

16.50 Investigation conducted has disclosed that on 20.9.2015, Smt. Deepinder Kaur along with his son Sippy Sidhu visited Sacha Dhan Gurudwara to attend a Bhog ceremony. After returning from gurudwara at 1.00 PM, Shri Sippy Sidhu changed his clothes and went away to have lunch with GF-I. Thereafter, at about 3.30, he again went out with GF-I and returned to his house at about 7.00 PM after watching the movie 'Everest' at North Country Mall, Mohali. He came to her room and relaxed himself on her bed. He was complaining of pain in his legs. At this, Smt. Deepinder Kaur called her servant to give a massage to him. Thereafter, Shri Sippy asked him that Ms. Kalyani had called him at Sector 27 Park, Chandigarh. Sh. Sippy Sidhu left the house at about 7.30 PM in his car after taking two apples from the refrigerator. Thereafter, she remained busy in kitchen etc. At about 11.00 PM, she made a call to Sh. Sippy Sidhu which was attended by some lady police officer, who told her about the incident with Shri Sippy at Sector 27, Chandigarh.

16.51 Investigation has revealed that Sippy Sidhu returned to India on 18.09.2015 and killed in mysterious circumstances on 20.09.2015. On each evening of all the 03 days, his location was found to be in Sector 27, Chandigarh. It is pertinent to mention here that on 18.09.2015, after receipt of phone call, Sippy Sidhu dropped GF-I and returned to the location of Sector 27, Chandigarh. During the period from

18.09.2015 to 20.09.2015, Shri Parminder Singh attended 03 functions organized on each evening i.e. on 18.09.2015, he along with his wife, Vikas Singh and wife of Vikas Singh visited the house of his friend Arun Abrol, Advocate at Mohali, a dinner was organized at his house on 19.09.2015 and on 20.09.2015, he along with his family and other relatives attended the birthday party at the house of Shri Kuldeep Singh, which is quite unusual in reference to visits of Sippy Sidhu at Sector 19, Sector 27, Sector 16, Chandigarh during all these three days from 18.09.2015 to 20.09.2015.

16.52 Investigation has revealed that Ms. Kalyani Singh failed to explain that why she stopped calling/contacting Sippy Sidhu w.e.f. 15.09.2015, i.e. one day prior to his scheduled arrival in India on 16.09.2015 and further that having a long association with Sippy Sidhu, she did not attended the funeral/bhog of Sippy Sidhu and even did not visit the house of Sippy Sidhu for condolence etc.

16.53 Investigation has revealed that Sh. Vikram Nagpal along with Vishal Nagpal both r/o # 1001, Sector 27-B, Chandigarh were present in their house situated near to place of occurrence. At about 9.30 PM, on hearing the sound like bursting of two crackers followed by another two similar sounds like gun fire, they came out from their house and observed an unknown person lying in the park. They informed the PCR. After about 20 minutes, the police reached the place of occurrence. Next day, some police personnel examined their CCTV DVR installed at their house and took some data which covers the movement of a small car outside their house during the relevant time. The said car was not belongs to them or to their relatives etc.

- 16.54 Investigation has revealed that Sh. Rajanbir Singh r/o # 1015, Sector 27-B, Chandigarh was present in his house, just meters away from the place where dead body lying. He heard a gun shot from the park side across boundary wall of his house. By the time he reached near to the boundary wall, he saw a person of a medium height of about 5'7" walking away from the wall side. The said person stopped a while on the walking track and turned his face to look at him. Out of fear, he immediately got down on his knees over the grass in his courtyard near boundary wall to avoid any reaction.
- 16.55 Investigation has revealed that Smt. Amreeta Singh w/o above Rajanbir Singh was also present in a room situated at first floor of his house on 20.09.2015 night. She also heard the sounds of gunshots fire followed by a screaming of a girl at about 9:30 PM. She went out towards balcony facing the main gate where she saw a small white coloured car parked under the street light near to main gate of her house. She also noticed a girl of age of about 26-27 years swiftly coming from the sides of the park towards her car. She opened the door of the car from driver side and drove away towards the East Side of her house. A computerized sketch of suspect girl seen by her was also prepared.
- 16.56 Investigation conducted has revealed that Sh. Kuldeep Singh along with Smt. Sarbjit Kaur (wife), Shri Amandeep Singh (Son) and Smt. Amandeep Kaur (daughter-in-law) are residing at # 113, Sector 18, Chandigarh. He is co-brother of Shri Sarjit Singh, father-in-law of Shri Parminder Singh. On 20.09.2015, on the occasion of birthday of his wife Smt. Sarbjit Kaur, they invited her near relatives of Chandigarh to attend dinner at his house. Shri

Parminder Singh along with his family reached there at around 8:15 PM and stayed till 11:00 PM. Beside them, family of father in law of Shri Parminder Singh, family of father in law of Shri Vikas Singh S/o Sh. Sarjit Singh also attended the party whereas real brother of above Kuldeep Singh and his family residing adjoining to his house was not invited. During celebration of birthday party, photographs were clicked from 07:51 to 08:20 PM and thereafter from 10:20 PM to 10:26 PM on 20.09.2015 in the camera of Shri Amandeep Singh.

16.57 Investigation has revealed that during examination of Ms. Kalyani Singh, her family members, they took an alibi that on the day & time of incident on 20.09.2015, they along with their relatives were remained present at House No. 113, Sector 10, Chandigarh throughout the celebration of birthday party started from 8.15 PM to 11.00 PM. The other members of the birthday party also corroborated the version of Ms. Kalyani Singh and her family members w.r.t. their presence on 20.09.2015 evening.

16.58 Investigation has revealed that in order to ascertain the veracity of the statement of Ms. Kalyani Singh and her family members, polygraph examination of Kalyani Singh and her father Shri Parminder Singh was conducted at CFSL, New Delhi after recording their consent before the court. The report of polygraph of Ms. Kalyani Singh has revealed that on the questions which included the relevant issues like absence from party, presence at Sector 27, Chandigarh and killing Sippy Sidhu, her answers found to be deceptive. However, polygram of Shri Parminder Singh is found to be truthful. The other members/participants of the birthday party denied to undergo polygraph test.

- 16.59 Investigation conducted has disclosed that cell Id of tower dumps installed at Mohali, Chandigarh and Panchkula having range over the place of occurrence was collected from the concerned service providers. However, no breakthrough could be find out during scrutiny of the same. During scrutiny of tower dump of place of occurrence at Sector 27, Chandigarh, some mobile numbers were observed as suspicious on the basis of their locations and common connection with other number relevant to the case. All the suspects were located and examined, but they were found usual visitor to the said tower location and explained their visit with plausible reasons.
- 16.60 Investigation has revealed that computerized sketch of suspect girl who entered in White Car near to place of occurrence i.e. Sector 27, Chandigarh has been prepared on the pointing out of Smt. Amreeta Singh, who had seen a girl moving from the place of occurrence after the incident on 20.09.2015.
- 16.61 Investigation has revealed that Sh. Jitender Singh s/o Sh. Gurmeet Singh working as air conditioning mechanic at Sector 52, Chandigarh revealed that he met Sh. Sippy Sidhu at his office F-452, Phase VIII-B, Mohali in the year 2014. He was also in touch with deceased Sippy Sidhu from 18.09.2015 to 20.09.2015 in connection with installation of CCTV camera at the house of Sippy Sidhu at Mohali. They were planning to purchase CCTV camera on 20.09.2015 accordingly Sippy Sidhu was in possession of large amount of Rs.33230/- in his pocket.
- 16.62 Investigation has revealed that scrutiny of WhatsApp Chat No.1835 between Ms. Kalyani Singh, mobile number 8198834127 and Sippy Sidhu for the period from 23.12.2014 to 22.08.2015 revealed that Sippy

Sidhu sent objectionable pictures of Ms. Kalyani Singh with Manjot Singh Cheema. On 13.04.2015 at 17:25:22 Sippy Sidhu sent postpaid mobile bill of 9646400004 of Simrandeep Singh Sandhu, in which he indicated the duration of call exchanged by Simrandeep Singh with Kalyani Singh. On 28.04.2015 at 19:27:25 hrs Sippy Sidhu sent objectionable pictures of Kalyani Singh with her so called mama. On 28.04.2015 at 19:32:12, Sippy Sidhu again sent a screen shot of pics of Ms. Kalyani Singh in compromise position.

16.63 Investigation conducted has revealed that scrutiny of WhatsApp Chat No. 1703 of Ms. Kalyani Singh, Mobile number 9888661315 with Sippy Sidhu for the period from 22.01.2015 to 14.04.2015 revealed that:-

- On 15.02.2015 at 17:47:16 Ms. Kalyani Singh sent message to Sippy Sidhu as “you know that just stay with the bitch you have made out with”. “It was so bloody important for you to do this. You could not stop yourself. Blood hel, get lost.”
- On 17.03.2015 at 08:34:37, Sippy Sidhu sent her screenshots of alleged recordings of mobile number 9646400004 of Simrandeep Singh Sandhu. He also sent a photograph showing images of CDs related to messages, call logs, Viber etc. in respect of mobile number 9417670318 of Kalyani Singh and 9646400004 of Simrandeep Singh Sandhu.
- The above 07 CDs were taken on record from Jasmanpreet Singh and sent to CFSL, Chandigarh to retrieve the data, however, the CFSL, Chandigarh vide its report No. CFSL(C) 2134/PHY/530/15/1605 dated 30.06.2016 and Report No. CFSL (C)1342/PHY/385/2020/1723 dated 07.10.2020, it was opined that exhibits marked CD-1 to CD-7 contain no data.

16.64 Investigation conducted has revealed that during scrutiny of i-phone 6 make Apple, IMEI No. 358365063233444 taken from Ms. Kalyani Singh found that on 13.09.2015, Sh. Navkiran Singh sent message to Kalyani Singh and wished her for a **Garbage free life**. On 14.09.2015, Ms. Kalyani Singh had last contacted over E.mail with Sippy Sidhu. On 20.09.2015 while present in same room at # 113, Sector 10, Chandigarh Ms. Kalyani Singh also exchanged WhatsApp message with Sabah Singh, on 20.09.2015 at 09:11 PM, Sabah to Kalyani: **come in other room**, 20.09.2015 at 10:24 PM, Kalyani to Sabah; **yea just got them nothing new lol**.

16.65 Investigation was conducted on the aspects i.e. property matter, affairs of Sippy Sidhu with other girls, activities of Sippy Sidhu with Paralympic Committee and love affair of Sippy Sidhu with Ms. Kalyani Singh to ascertain the motive and Mens rea behind the murder of Sippy Sidhu which is described as under:-

(i) Property matters

Investigation w.r.t. property matters revealed that in the year 2010 M/s Ozone Company received an amount of Rs.07 crore from M/s Omaxe India to facilitate the latter to purchase land from farmers at Amritsar and get release the land from acquisition by Improvement Trust, Amritsar. Sh. Sippy Sidhu came in to the contact with the Directors of Ozone Company, being run by Directors namely Sh. Sukhwinder Singh, Bhupinder Singh @ Yuvraj son-in-law of Bibi Jagir Kaur and Shri Avtar Singh. In the year 2013 Sh. Sippy Sidhu intervened the matter between M/s Ozone and M/s Omaxe at his residence to settle their

issue.

- In the year 2010 M/s Ozone Company received an amount of Rs.07 crore from M/s Omaxe India to facilitate the latter to purchase land from farmers at Amritsar and get it released from acquisition by Improvement Trust Amritsar.
- Sh. Sippy Sidhu came in contacts of the Directors of Ozone Company, being run by Directors namely Sh. Sukhwinder Singh, Bhupinder Singh @ Yuvraj son-in-law of Bibi Jagir Kaur and Shri Avtar Singh to settle the matter with M/s Omaxe India.
- In the year 2013, Sh. Sippy Sidhu intervened the matter between M/s Ozone and M/s Omaxe at his residence to settle their issue. The matter could not be resolved and pending adjudication in the court. Thereafter, there was no interference on the part of Sippy Sidhu in the said matter.
- In the year 2009, Sh. Sippy Sidhu and Sh. Avtar Singh agreed to construct an office building on the plot owned by Sippy Sidhu at F-452, Phase-8B, Mohali. The cost of the industrial plot was considered as Rs.2.35 Crore and an equal amount was paid by Sh. Avtar Singh for construction of the building and share of 51% and 49% in the office building was created between them.
- Sh. Avtar Singh NRI and Director of M/s Ozone also invested in certain properties in Mohali and Jalandhar Distt. of Punjab, of which disputes were in the knowledge of deceased Sippy Sidhu, however, no role of Sippy Sidhu in said dispute was found

which may be the motive of enmity with Sippy Sidhu.

During investigation, no involvement or motive of any person in the property matter has been found which may cause the extent of enmity and murder of Sippy Sidhu.

(ii) Affairs with other girls:

Investigation has revealed that Sippy Sidhu was having multiple affairs with other girls. Their names have not been incorporated in view of dignity of woman and to avoid any adverse inference in the society as no role on their part in the murder of Sippy Sidhu has been established. These women have been marked as GF-I, GF-2, GF-3, GF-4, GF-5 and GF-6 as under:-

GF-I

- Sh. Sippy Sidhu developed intimacy with her who is a single child of an industrialist at Mohali.
- Her parents proposed an engagement of their daughter with Sippy Sidhu, however the same was delayed by mother of Sippy Sidhu.
- Ms. Kalyani Singh objected the relation of said girl with Sippy Sidhu. And also warned her by sending message suggesting her to stay away from Sippy Sidhu and to see her at her home or office.

GF-2

- She came in contact of Sippy Sidhu during college days in the year 2002.
- In the year 2004, she married to another boy residing at Delhi.
- In the year 2011 she had strained relation with her husband and started living

separately.

- In the year 2013-14 Sippy Sidhu approached her and developed relation.
- In the 2014, she developed good equation with the family members of Sippy Sidhu and also visited and stayed at his house.
- Sippy Sidhu also stayed at her house number of times prior to 20.09.2015

GF-3:-

- In the year 2014, Sippy Sidhu came in her contact through his cousin at Punjabi University Patiala.
- Sippy Sidhu developed friendship with her through face book.
- In the year 2014 she shifted to Chandigarh for further studies and used to meet Sippy Sidhu.
- In the year 2015, she along with her friend also visited the office of Sippy Sidhu at Mohali.
- In the year 2015, she informed Sippy Sidhu about her engagement to avoid his advances towards her.

GF-4:-

- In the year 2013, she was working as an advocate at Chandigarh and came in the contact of Sippy Sidhu.
- In the year 2014, Sippy Sidhu called her to his office as well at his house and developed friendship.
- Both used go out for Lunch/dinner on many occasions at Chandigarh.
- She exchanged many phone calls with him, even on the night of incident on 20.09.2015.
- She also helped the family of Sippy Sidhu

after the incident of murder on 20.09.2015.

GF-5:-

- She is a divorcee with whom Sippy Sidhu developed acquaintance.
- Sippy Sidhu visited her residence and offered to settle her matter, however no help was taken by her.”

5. After referring to all the material collected during the course of investigations, the Investigating Officer concerned proceeded to conclude that, an untraced report is to be filed in respect of the petition FIR, and, ultimately he did so, through his instituting the same on 7.12.2020, before the learned committal Court concerned. However, after the institution of the above referred untraced report on 7.12.2020, before the learned committal Court, the latter on 8.12.2020, made an order to declare whether the report as became filed before it by the Investigating Officer was a final report or an untraced report or a status report, obviously for this purpose, the learned Court adjourned the matter to 14.12.2020.

RELEVANT RECORD OF COMMITTAL COURT

6. On 14.12.2020, as is apparent from a reading of the order as then made, the Investigating Officer concerned made a statement that no investigation is pending in respect of the petition FIR, except the report of the polygraph test being awaited. He further then states, that they are not seeking further investigations of the case. However, the learned committal Court concerned adjourned the committal proceedings to 12.1.2021 for the filing of a fresh report by the CBI. However, even on 12.1.2021, the CBI did not file any final report, but submitted that the polygraph test of some of the suspects, is to be made by the CFSL, New Delhi, respectively on 3.3.2021 and on 4.3.2021. Therefore, for the afore purpose, the committal

proceedings were adjourned to 15.3.2021. But even on 15.3.2021, no final report became filed before the learned committal Court, but a direction was then made, that the CBI ensuring that the relevant tests are conducted by the CFSL, New Delhi. The matter was adjourned to 31.3.2021. On 31.3.2021, the CBI moved an application for conducting the polygraph test of Shri Simrandeep Singh Sandhu and of Shri Karampal Singh as the same had been scheduled on 19.4.2021 and on 20.4.2021 at CFSL, New Delhi. Therefore, the committal proceedings were adjourned to 3.5.2021 for a report about the above tests being submitted before the Court. On 22.4.2021, the learned committal Court concerned upon, being seized with the report drawn by the PGIMER, with an opinion therein that “looking at the enclosed prescriptions of Mr. Sandhu (applicant/suspect) from Omni Clinics, it seems that he is on medications, which according to available literature, have been found to have potential of interfering with the accurate interpretation of the polygraph test, e.g. Betacap (propranolol and Tryptomer amitriptyline).” Therefore, the learned committal Court ordered that the reply of CBI, be furnished with respect to the veracity of the above report making speakings about the inability of conducting of polygraph test, upon, suspect Simrandeep Singh Sandhu. However, on 3.5.2021, the above Simrandeep Singh Sandhu was ordered to be provided with the report (supra). Moreover, on 1.6.2021, the learned committal Court, in view of the medical report (supra), issued notice to the CBI, upon, the above suspect's application, for hence his being permitted to withdraw his earlier consent for his undertaking the polygraph test. On 7.7.2021, the learned committal Court proceeded to allow Simrandeep Singh Sandhu to withdraw his earlier consent as made on 12.11.2020 to undergo his polygraphy test, but yet

permitted the investigating team to employ upon them Forensic Psychological Assessment besides Layered Voice Analysis (LVA). Even suspect Karampal Singh moved an application for withdrawal of the earlier consent given by him to undergo polygraph test, as such, notice of the above application was given to the CBI, besides, notice was given to the CBI, on Simrandeep Singh Sandhu's application, that he may not be called to CFSL, New Delhi. On the above applications, the learned committal Court permitted the applicants (supra) to withdraw their earlier consent for theirs undergoing the above polygraph tests besides also denied to the CBI their request to perform Layered Voice Analysis, upon, the above suspects. Moreover, it also ordered that nothing more is to be done on the part of the investigating agency rather ordered that the proceedings be listed on 16.8.2021, for the purpose of considering the acceptance/rejection of the untraced report submitted by the CBI.

7. On 16.8.2021, notice was given to the family members of the deceased to make a protest to the acceptance of the untraced report as became instituted on 8.12.2020 by the CBI. In pursuance thereto, on 22.9.2021, the relatives of the deceased asked for an opportunity to file a protest against the acceptance of the untraced report. Subsequently, various dates became assigned to the concerned to complete the respective pleadings. On 12.1.2022, aggrieved victims filed a protest petition before the learned committal Court against the acceptance of the untraced report. Moreover, an opportunity was granted to the concerned to institute a reply thereto. On 7.2.2022 besides continuously thereafter, a perusal of the committal proceedings, discloses that the Investigating Officer concerned not asserting any pointed inculpatory evidence becoming collected against

the present petitioner. On 23.2.2022, a reference was made to an order dated 14.2.2022, whereby two months' time was asked by the Investigating Officer to conclude the investigation, and, hence, the learned committal Court adjourned the committal proceedings to 16.3.2022 for submitting the report.

8. However, on 16.3.2022, the Investigating Officer submitted before the learned committal Court, that as per source information the last four digits of Maruti Zen Car spotted at the place of incident besides at the relevant time are "1183" and, that the record from the Department of Transport concerned, in respect of the above is to be collected. However, a perusal of the subsequent proceedings thereto drawn by the learned committal Court does not reveal that the identity of the owner of the car became revealed to the Court. Thereafter, on 27.7.2022, the learned committal Court directed the Investigating Officer concerned to submit in Court the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure besides the documents mentioned in the final report dated 7.12.2020, but yet in a sealed cover. Moreover, it also permitted the Investigating Agency to record supplementary statements of any witness already examined. In addition, a perusal of the orders as made subsequent to the order (supra), does not disclose that the learned committal Court had proceeded to accept the untraced report as became submitted before it on 7.12.2020 by the CBI. Therefore, then the investigations were yet underway into the crime event.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

9 (I). The crime site occurs in the neighbourhood of the house of Rajanbir Singh, Amreeta Singh besides occurs in the vicinity of the house(s)

of Vikram Nagpal and Vishal Nagpal. The statements of all the above including the statement of Kundan Lal, a domestic help of Rajanbir Singh became initially recorded by the Investigating Officer concerned, but after a period of almost six months elapsing since the happening of the crime event at the crime site.

II. The learned counsel appearing for the petitioner submits, that these statements are only to the effect, that qua Rajanbir Singh and Kundan Lal, on hearing gunshot sounds, hence, leading Rajanbir Singh to move to the boundary wall of his house, overlooking the park where the crime occurrence took place. Moreover, he has stated that when he moved towards the wall, he heard two more shots being fired in quick succession, and upon, his reaching near the wall, his seeing a person of medium height walking away from the wall side. In the above process of the said person walking, he stopped midway at the walking track, and, turned his face to look at this witness, but Rajanbir states that he knelt down to avoid his being sighted. Even the domestic help of Rajanbir Singh, namely, Kundal Lal makes an alike statement but the learned counsel for the petitioner submits, that their statements are not worthy of any credence, as they have not mentioned therein, the trite factum about the physical features of the running persons nor mentioned about each sighting any weapon of offence being carried by the said person nor have mentioned the presence of any lady at the relevant time at the crime site. Even otherwise, he submits that since the statements of the above witnesses were recorded after nearly eight months elapsing since the taking place of the crime occurrence. Therefore, their statements cannot be relied theirs being hit by Section 162 of the Code of Criminal Procedure. Besides, he submits that despite Rajanbir Singh

being re-examined by the CBI on 20.5.20216, his statement has been withheld which does, prima facie, speak about the malafides of the investigations.

III. Another statement of Amreeta Singh wife of Rajanbir singh, resident of Kothi No. 1015, Sector 27-B, Chandigarh became recorded on 20.5.2016, but evidently also with a period of more than eight months elapsing since the crime happening at the crime site. In the above made statement, she submits that she heard the screams of a woman and later saw a girl walking towards her car and driving away. Therefore, he submits that since in semi darkness, Amreeta Singh saw a fleeting glimpse of a girl, resultantly, when she did not in her initial statement made on 20.9.2015, rather reveal the physical features of the lady or of the girl concerned. As such, he submits that the supplementary statement as recorded on 4.8.2020, of one Amreeta Singh, wherein she, as submitted by learned counsel for the CBI, recollected from memory the physical features of a girl she then saw besides, aided the drawing of sketches by the Investigating Officer concerned, whereafter, she related the drawn sketches of a girl to the identity of the present petitioner, also cannot be believed. In resting the above submission, he grooves it on the factum, that only if she had at the initial stage in her earlier previous statement recorded by the Investigating Officer concerned rather revealed the physical features of the present petitioner, thus, leading to the conducting of a valid test identification parade, wherein Amreeta Singh identified the present petitioner, thereupon, alone may be credence could be assigned to hers validly then identifying the petitioner, rather than through the above mode.

IV. Moreover, he submits that no reliance also can be placed on the

statement of Jatinder Singh who respectively made certain statements on 1.8.2016, on 21.11.2017, on 9.1.2018, on 1.2.2019 and on 1.9.2020, given all the above statements being recorded with more than ten months elapsing since the happening of the crime event at the crime site, thus, attracting thereons the bar under Section 162 of the Code of Criminal Procedure. He further submits that no reliance can ever be placed, upon the above statements, as he is not an ocular witness to the crime event, but only claims that he reached the Press Club area of Sector 27, in the vicinity of the spot, at about 7 PM on 20.9.2015, and, but obviously not at the relevant time. Moreover, he submits that since the statement of supra, is also mentioned in the untraced report, therefore, when even then the CBI did not draw any inculcation against the petitioner. Therefore, no reliance thereons even at this stage can be placed by the CBI.

V. The learned counsel for the petitioner also submits that since the Investigating Officer concerned, has failed to produce from the service provider concerned, the call data even appertaining to the cell phone of Jatinder Singh, revealing from the apposite tower locations concerned, qua his being present at the crime site or at any other place. Therefore, he submits that the effect of non collections (supra), is that, they do minimise the evidentiary effect, if any, of the statement of one Jatinder Singh.

VI. In paragraphs 16.13 to 16.16, the prosecution assigns the incriminatory fact to the petitioner qua hers nursing a motive to commit the crime on the ground of her proposal to marry the deceased being spurned by the relatives of the deceased, on the ground of it, being an inter-caste marriage.

VII. The learned counsel for the petitioner has argued, that the

emphasis as now made by the CBI qua the present petitioner nursing a motive to commit the offence, thus, emerging from the deceased transmitting her obscene photographs, to various persons including her family members, resulting in embarrassment being caused to her, is in complete contradiction, to what emerges in paragraphs 16.13 to 16.16 of the untraced report. Therefore, he submits that the relevant subsequent changings of stand by the CBI qua the foundational fact relating to attribution of a motive to the petitioner does become suspect. He further submits, that the above change, is the result of the CBI making alignments with an alike attribution of motive to the present petitioner by the complainant. Therefore, he submits that the investigations into the crime event are completely coloured and are not fair objective and impartial investigations.

VIII. He also submits that the projection made by the complainant that the deceased had taken to abandon his ties with the petitioner, upon, his acquiring knowledge of hers having other relationships, is also completely false.

IX. Learned counsel for the petitioner contends that even the attribution of the above motive to the present petitioner becomes completely falsified from:

- a) Annexure P8 at page 116, whose readings reveals the earnestness of the deceased to remain close to the petitioner besides sheds light qua the deceased having multiple affairs.
- b) In para 16.37/page 53, there is a reference to an email dated 29.8.2015. The same is placed on record as

Annexure P-8/122. This is followed by another email at page 123 of the same date. In the same chain, it is significant to refer to an email dated August 30, 2015 at page 124. All these emails totally falsify the theory of any breach of ties amongst the petitioner and the deceased. Moreover, the above emails reflect that the deceased had promptly conveyed to the petitioner the perceived threat to his life from some unknown quarters. These emails assume great importance as they relate to a period when the deceased was abroad.

- c) Strangely enough, the prosecution itself has alleged at page 57/para 16.46, that the petitioner had visited the office of Sippy Sidhu on 18.9.2015 as also on 19.9.2015. Therefore, the untraced report of the CBI revealing about breach of ties amongst the deceased and the petitioner is false. Moreover, tears apart the contention of the respondent that there was any animosity amongst the deceased and the petitioner. The above assertion is contended to falsify the so called theory of the CBI that the petitioner had clandestinely made calls to the deceased, on 18.9.2020, in order to conceal her identity.

X. The learned counsel for the petitioner further submits, that upto the stage of the filing of the untraced report, before the learned committal Court, there was no incriminatory evidence available against her but she was named only in the column of suspects. Therefore, he contends that the sudden emergencies subsequent thereto of any incriminatory material against

her, is a result of complete twisting and skewings of investigations. Even otherwise, he submits that since the above emails exchanges are suggestive of no break down occurring in the ties amongst the petitioner and the deceased. Therefore, there was no occasion for her to make calls to him from unknown numbers. Moreover, he further submits, that even the petitioner visiting or interacting with the deceased on two days prior to the occurrence also does not arouse any suspicion as both were, throughout on amicable terms. He submits, that the trite evidence with respect to call details of the petitioner along with apposite tower locations particularly relating to the trite factum that in and around the relevant time, she was at the crime site, rather is completely absent. Therefore, no argument can be raised that on the asking of the petitioner, the deceased had arrived at the crime site.

XI. The learned counsel further submits, that it emerges from paragraph 16.40 of the untraced report, that the relevant calls were from some quarters which caused some fright in the mind of the deceased, especially when the answer of the deceased to the first call was "*Main Karda Haan Main Karda Haan*", besides his response to the call at 8.12 PM being "*Meri Taan Fatt Gai Si.*" Therefore, they are reflective of the caller concerned being a Mafia Don and his taking to threaten the deceased. Resultantly, the learned counsel argues that the above aspect has remained un-investigated into by the CBI, whereas, upon complete objective investigations being made thereinto rather than the fact of participation in the crime event of some other relevant offender would have emerged.

XII. The learned counsel submits that since the readings of the emails exchanged amongst the petitioner and the deceased, thus, occurring

in Annexure P-8, especially at page 120 of the paper book, reflect that, since some maruti car with persons carrying weapons rather occupying the same, thus, arousing suspicion in the mind of the deceased, about theirs' rearing an ill motive against the deceased, resulting in advise being purveyed to the deceased by the petitioner, that an intimation about the above fact be made to the DGP. However, the Investigating Officer concerned has not made any investigations in respect of the above, resultantly completely skewed investigations, are conducted, thus, excluding the role of the above in the crime event.

XIII. The petitioner has been able to successfully establish the plea of *alibi* inasmuch as at the relevant time hers being present in a party. He submits that the above is corroborated by a positive polygraph test as made upon the father of the petitioner, no matter the result of the polygraph test as made upon the present petitioner being declared deceptive.

XIV. The learned counsel for the petitioner lastly submits, that since there is a reference in the untraced report, about the deceased having multiple affairs besides with his admitting in various emails exchanged with the petitioner qua his taken to be holdings ties with multiple lady friends, as such, some other girl friends may have nursed a pointed motive to murder the deceased. He pointedly submits that even upto the evening of the relevant day, the deceased was in the company of GF-I.

SUBMISSIONS OF LEARNED COUNSEL FOR THE CBI

10. The learned counsel for the CBI has submitted that the evidence collected in the year 2021 by the CBI is truthful and worthy of credence as it contains an eye witness account with respect to the crime event. The said eye witness account is comprised in the statement of one

Jatinder Singh. Moreover, it is also submitted that since one Jiwan Singh, the domestic help of deceased has on 21.10.2021, got recorded his statement that on the relevant date, the deceased apprised him that he has to meet the petitioner. Therefore, it is contended that the petitioner was available at the crime site.

SUBMISSIONS OF LEARNED COUNSEL FOR COMPLAINANT

11. The learned counsel for the complainant has argued, that the investigations which were earlier conducted into the crime event, by the Chandigarh Police were, highly influenced investigations, as is apparent from the officer of the CBI, at the end of the untraced report, making a suggestion that for destruction of evidence, the relevant proceedings be drawn against the errant police officials concerned. He submits that the evidence destroyed did inculcate the present petitioner. Further more, he submits that if certain portions of the DVR or of the CCTV footage existing within or outside the neighbourhood of the crime site, was collected and analyzed, then the inculcation of the present petitioner would have been but squarely revealed. He submits that with a view to suppress the participation of the present petitioner in the crime event, the complete detail (s) of the DVR and of the CCTV footage has been deleted at the instance of the officers of the Chandigarh Police. Moreover, he submits that the ocular account rendered in respect of the crime event by one Jatinder Singh, also becomes corroborated as is evident from the identification made of the petitioner by one Amreeta Singh, in the year 2020.

PRIMA FACIE CONCLUSIONS FROM ATTRIBUTION OF MOTIVE TO THE PRESENT PETITIONER

12. The motive assigned to the present petitioner, in the untraced report which has been instituted on 7.12.2020 before the learned committal

Court, is that, owing to breach of promise of marriage by the deceased arising from his relatives opposing the same, it being an inter-caste marriage, hence, the petitioner developing an animosity towards the deceased. If so, the above motive in the mind of the petitioner, may have normally earlier led the CBI to then assign inculpability to the petitioner, but the CBI did not then do so. However, it chose to yet file an untraced report but kept the petitioner in the column of suspects. Therefore, if at the time of institution of an untraced report by the CBI, apparently it did not attach any importance to the above purported motive carried in the mind of the petitioner. Thus, obviously then the CBI also did not collect further incriminatory evidence against the petitioner, for its then seeking to pointedly then inculcate the petitioner. However, rather than the CBI as stated (supra) kept the petitioner in the column of suspects.

13. Therefore, at the above stage except the above motive, there was no further incriminatory evidence available with the CBI to, prima facie, firmly connect the petitioner with the crime event. The untraced report as stated above, never became accepted by the learned committal Court. In consequence, in the CBI now assigning any motive to the present petitioner, is but, prima facie, an after thought besides, is prima facie a stratagem employed by it to somehow yet on its score assign guilt to the present petitioner. This Court, prima facie, finds that the above is but a consequence of protest against the acceptance of the untraced report being preferred by the aggrieved, who therein assigned a motive to the petitioner qua the deceased taking to share the cell phone clicked obscene pictures of the petitioner with certain individuals and the family members of the petitioner, resulting in embarrassment being caused to her, whereafter she allegedly

nursed an ill motive to commit the offence. The CBI has adopted a similar stand and thus has obviously changed the above initially assigned motive by it to the petitioner, which, however, then was also not deemed fit to inculcate the petitioner. Therefore, it appears that the investigations made into the aspect of an ill motive, if any, nursed by the petitioner against the deceased are but, prima facie, a result of coloured investigations by the CBI into the crime event and that too, for reasons best known to it, it rather making alignments with the motive assigned to the petitioner by the aggrieved. Therefore, the investigations into the aspect of ill motive, if any, nursed by the petitioner against the deceased, can but be concluded to be, prima facie, made not in an objective mode, but in a partisan and coloured mode. The said investigations into the aspect of motive, thus prima facie do not inspire the confidence of this Court.

14. The effect of the different motives at different stages being assigned by the CBI to the petitioner, is that, thus the same also prima facie becomes inconsequential.

PRIMA FACIE REASONS FOR FALSIFYING THE MOTIVE

15. The reasons for forming the above conclusion arise from the factum that in the close proximity of the happening of the crime, it being, but evident from all the available whatsapp messages exchanged amongst the petitioner and the deceased, that both the petitioner and the deceased were enjoying the most cordial relations. It is also, prima facie, evident from a reading of Annexure P-8 at page 116 of the paper book besides from a reading of paragraph 16.37 at page 53 of the untraced report, besides on a perusal of Annexure P-8, pages 122-123 of the paper book, that both the petitioner and the deceased (supra) were till the end having the most cordial

relations. The above contended break down of ties at the relevant time amongst the concerned, is also, prima facie belied from a reading of page 57 of the paper book, wherein, it is revealed that the petitioner had visited the office of the deceased both on 18.9.2015 and on 19.9.2015, hence, prior to the occurrence. There is also no evidence, at this stage, on record to suggest, that when the petitioner visited the office of the deceased, on 18.9.2015 as also on 19.9.2015, that then there occurred bickerings amongst them. Therefore, when the above dates are close to the happening of the crime incident, it can but be, prima facie, concluded that upto the happening of the crime event there was no acrimony amongst them. Inconsequence, the assignments of motive by the prosecution to the petitioner, prima facie, does become completely enveloped in a cloud of doubt nor prima facie at this stage, any inculpatory effect can be attached theretos.

16. The prosecution attributed to the petitioner yet the role of hers carrying animosity towards the deceased and in doing so, it relies upon one Hari Shankar Gupta who stated, that on that day, i.e., 18.9.2015, at 8.15 PM, a girl of age about 25 years, wearing top and jeans and a dupatta of dark colour wrapped around her neck, open hair upto the shoulder, with physical features like the petitioner, had visited his premises and had asked him to give his mobile as she stated that his phone has been left at home. On her request, he handed over his mobile to her and after completing the call, he submits that she returned his mobile to him but only after hers deleting the dialled number. The above call is stated to be attended by the deceased when he was present along with his Girl Friend-I (GF-I) at Industrial Area, Chandigarh. However, the above call is made on 18.9.2015 and is not made on at the relevant date inasmuch as on 20.9.2015. Therefore, it may not be

given much importance. Moreover, when on the basis of the above call, a reference is made even in the untraced report instituted by the CBI. Therefore, if any importance was to be assigned to the above phone call, then the CBI may have then taken to then on its basis, hence inculcate the petitioner, than to then file an untraced report, but it did not then do so. Insofar as Hari Shankar Gupta from whose cell phone, some unknown calls were made purportedly by the petitioner to the deceased, and as stated by Hari Shankar Gupta, the caller relating to the identity of the petitioner, this Court would deal with the same at a subsequent stage. Reiteratedly, from the above drawn inferences, it can but be prima facie concluded that the motive as initially assigned to the petitioner by the CBI, has not been ably established. The above motive was earlier abandoned by the CBI, but subsequently the CBI changed its stand to bring alignments with the motive (supra) assigned to the petitioner, by the complainant which yet however also for reasons (supra), does not appeal to the judicial conscience of this Court qua, prima facie, it carrying any inculpatory effect.

STATEMENTS OF WITNESSES AND THEIR, PRIMA FACIE, EFFECT

17. In the neighbourhood of the crime site, there exists the house of Rajanbir Singh, Amreeta Singh besides the house of one Vikram Nagpal and Vishal Nagpal. Rajanbir Singh and Amreeta Singh have a domestic help one Kundan Lal. Both Rajanbir Singh and Kundan Lal joined investigations but after six months elapsing since the happening of the crime event at the crime site. In their respectively made statements, they do not reveal the identity of the petitioner nor do they reveal her physical features. The only statement which they make, is about, theirs hearing gunshot sounds, as emanated from the crime site. Importantly, they only

refer to a male person being sighted at the crime site. On the other hand, Amreeta Singh wife of Rajanbir Singh who joined investigations with almost eight months elapsing since the crime happening at the crime site, though did then, proceed to make a statement revealing, that she had heard the screams of a woman and that later she had seen a girl walking towards her car and driving away. Importantly, however, except the above, she has also not therein disclosed the physical features of the girl concerned. However, in her supplementary statement recorded by the CBI on 4.8.2020, the above Amreeta Singh, appears to recollect from her memory the physical features of the girl, she saw at the crime site besides appears to aid the Investigating Officer concerned, to draw sketches of the girl concerned whom she relates to the identity of the petitioner. However, the above cannot become a valid ground for concluding that the same is a valid substitute, to the required test identification parade being conducted, by the Investigating Officer, wherein, Amreeta Singh, hence identifying/identified the petitioner. Importantly during the course of investigations, no valid test identification parade was ever held. It appears that it was not ever held because in her initially made statement, as made with more than eight months elapsing since the happening of the crime event, she did not therein mention the key characteristic identifiable physical features of the petitioner. Though, Amreeta Singh's statement is made with more than eight months elapsing since the crime event taking place and is prima facie hence hit by Section 162 of the Code of Criminal Procedure. But even if it has some credence, yet in the initial statement she was to yet detail the marked identifiable physical features of the girl. However, she did not then do so. If in a supplementary statement as made by her on 4.8.2020, she

from making recollections from her memory, qua the physical configuration of the girl rather, aided the CBI to draw some sketches besides also related the drawn sketches to the petitioner, but yet prima facie also no credence can be assigned thereto. The reason is, but obvious, that credence could be assigned to the above only when in her initially made statement, she had recorded the marked identifiable physical attributes of the girl whom she saw at the crime site. She did not then do so. Thus in hers subsequently doing so, she is prima facie concluded to be so doing under tutorings being given to her by the CBI. Therefore, she is prima facie concluded to be a planted witness or an engineered witness. Moreover, since she has only inculcated the petitioner through preparation of sketches of the girl, she saw at the crime site. Resultantly, no credence can be assigned to the above manner of hers identifying the petitioner. Reiteratedly, when as above stated it is never a valid substitute to the required valid test identification parade being conducted. The above valid test identification parade never became conducted by the Investigating Officer concerned.

STATEMENTS OF JATINDER SINGH

18. The pivot of the prosecution case, is rested on the statement of one Jatinder Singh, who is claimed to be an ocular witness. He, had on four occasions earlier to 9.11.2021 made statements to the Investigating Officer concerned, inasmuch as, on 1.8.2016, on 21.11.2017, on 9.1.2018, On 1.2.2019 and on 1.9.2020. However, in none of the statements, he claimed himself to be an eye witness of the occurrence. Surprisingly and suddenly, in a statement made on 9.11.2021 under Section 161 of the Code of Criminal Procedure, he claimed himself to be an eye witness, to the occurrence, and named the present petitioner to be the prime inculpatory

participant in the crime event. The above made statement is prima facie weak and cannot be accepted.

PRIMA FACIE REASONS FOR, AT THIS STAGE, PRIMA FACIE REJECTING THE STATEMENT OF JATINDER SINGH

19. The reason being that when an untraced report was filed, his statements as made prior thereto, were already with the CBI, where he never claimed himself to be an eye witness of the occurrence. However, he makes a somersault, during the phase of the learned committal Court being seized with an untraced report and with the protest against its acceptance being made by the aggrieved, through his making a statement on 9.11.2021 wherein he claims himself to be an eye witness of the occurrence. Necessarily, prima facie, the above statement of Jatinder Singh which is but completely contradistinct to his earlier statements, thus does become enveloped in a deep shroud of suspicion. Consequently, the above is but a planted witness as also a witness who has been coached by the Investigating Agency only for solving the murder of the deceased.

20. In addition, the cell phone of Jatinder Singh was the best electronic evidence for prima facie supporting his statement as made on 9.11.2021. The call data thereof, besides the apposite tower locations revealing his presence in and around the crime site at the relevant time, may have prima facie led this Court to assign credibility to this statement. However, all the above never became collected by the Investigating Officer. Absence of collections (supra) does also prima facie devalue his statements (supra). It was but incumbent upon the Investigating Officer concerned to not only collect his mobile phone besides also to ensure the collection of all relevant data from the service provider concerned, revealing that he along with his mobile phone was available at the crime site. It was then only that

this Court may have been assured that he was, at the relevant time, in and around the vicinity of the crime site. Surprisingly, the above has not been done, and, prima facie hence it adversely impacts the statement of Jatinder Singh. Therefore, at this stage, the said statement does not carry any evidentiary strength.

FORENSIC EVIDENCE DVR, CCTV FOOTAGE

21. It appears that in the neighbourhood of the crime site, some DVRs were existing and they enclosed CCTV footages of the crime event. The above, though then became collected by the then Investigating Agency concerned, but in para 16.44 of the untraced report, there is no disclosure that at the relevant time, the present petitioner was revealed therein to be present at the crime site. The above comprised the best evidence to make this Court, prima facie conclude that the present petitioner, at the relevant time, was at the crime site. Despite the CBI in the untraced report making a declaration, that only a part of the incident became enclosed in the DVR as became collected from the neighbourhood of the crime site, but it alleges that the then Investigating Agency taking to destroy the other portions of the CCTV footage, besides also the DVR. However, prima facie, the above fact could have been supported, only by the report of the CFSL, New Delhi, but the above finding is not available on the record. Therefore, the enclosings in the DVR, may be of only a fraction of the crime event and not of the entire crime scene, may be rather attributable to some glitches in the DVR, than prima facie to any tamperings or destructions being made at the instance of the then Investigating Agency concerned. The above attributions of tamperings/destructions, to the earlier Investigating Agency, as, made in the untraced report filed by the CBI, appear to be prima facie

totally mis-founded besides, appear to be made to camouflage the numerous faults committed by the CBI in the investigations as made into the crime event.

PRIMA FACIE EFFECT OF NON-RECOVERY OF CRIME WEAPON DURING THE COURSE OF THE CUSTODIAL INTERROGATION OF THE PRESENT PETITIONER

22. The present petitioner had remained in CBI custody for six days, but surprisingly during the above phase the Investigating Officer concerned did not record her disclosure statement about her concealing and hiding the crime weapon nor obviously any recovery thereof became effected at her instance to the CBI. The omissions (supra) are prima facie extremely grave inasmuch as, despite one Jatinder Singh in his statement narrating an ocular account qua the crime event, hence inculcating the petitioner as the principal in the first degree. However, yet the above memos became not drawn during the course of the petitioner's spending six days in CBI custody. The resultant effect of the above omission, is that, "the statement of Jatinder Singh was not then available" with the CBI. Thus, prima facie it appears that to validate the arrest of the present petitioner, the Investigating Officer concerned, despite rather post the arrest of the petitioner his recording the statement of one Jatinder Singh, his taking to antedate the statement of Jatinder Singh, only for justifying the arrest of the present petitioner. The above prima facie antedating also at this stage makes the statement of one Jatinder Singh to be suspect. Even otherwise, the non-recovery of the weapon of offence from the petitioner by the Investigating Officer concerned, despite the prosecution alleging that she is the principal in the first degree, also prima facie does not connect the petitioner in the alleged crime.

23. Since the investigation into the crime event evidently commenced about seven years hitherto and yet with no headway being made for solving the crime event by the Investigating Officer except the filing of an untraced report on 7.12.2020 before the learned committal Court. Thus, it appears that, prima facie, there was an over anxiety on the part of the Investigating Officer concerned, to somehow close the investigations through his arresting the present petitioner. However, he has remained unmindful to an untraced report being filed on 7.12.2020, wherein, the statements of all the witnesses were reflected, yet then no inculcation being drawn against the petitioner. In sequel, the above hastiness of the Investigating Officer, besides his leaving aside all relevant un-investigated facets, which become referred hereafter, also leads to a prima facie irresistible conclusion, that rather botched and slipshod investigations, being made into the crime event, rather only for solving the same, than his ensuring that the role of all the relevant offenders concerned being also completely investigated into.

STATEMENT OF JIWAN SINGH

24. Though one Jiwan Singh, a domestic help in the year 2021 has stated that the deceased had left his home intimating him that he has to visit the petitioner. But the above statement is much delayed since the happening of the crime event. Thus, the said statement prima facie does not at this stage, carry any credit worthiness. Importantly also, when he is not an eye witness besides when for reasons assigned hereinabove the best electronic evidence suggestive of the guilt of the petitioner is not available before this Court. Moreover, when also for reasons assigned hereinafter prima facie at this stage the petitioner has ably reared a plea of *alibi*.

PLEA OF ALIBI AND ITS, PRIMA FACIE EFFECT

25. Be that as it may, the plea of *alibi* as claimed by the present petitioner is accepted by the CBI, even in the untraced report. The same is prima facie established from the positive results of the polygraph test as became conducted upon the father of the petitioner. The effect of positive results of the polygraph test as conducted on the father of the petitioner, is that, his being truthful in stating about the presence of the petitioner, at a birthday party and that too at the relevant time. Therefore, any negative results with respect to the polygraph test as conducted upon the present petitioner, thus are prima facie unworthy. The reason being that with the father of the petitioner as stated above assigning truthful answers with respect to the petitioner being at a birthday party, and that too, at the relevant time. Thus when the above is at this stage not belied, resultantly the negative polygraph test as conducted upon the present petitioner, does at this stage prima facie, become insignificant. Therefore, the plea of *alibi* prima facie can be said to be well rested upon the positive polygraph test as conducted upon the father of the petitioner who has therein spoken about the presence of the petitioner at a birthday party at the time when the crime event took place at the crime site. Therefore, also prima facie the belatedly recorded statements of all the witnesses concerned do also at this stage become unworthy.

THE RELEVANT LEADS AGAINST THE OTHERS WHICH HAVE NOT BEEN INVESTIGATED BY THE INVESTIGATING AGENCY

26. A reading of paragraph 16.40 of the untraced report which is extracted hereinabove reveals that certain calls, from certain unknown quarters caused fright in the mind of the deceased. The above is discernible, from the deceased to the first call replying that “*Main Karda Haan Main*

Karda Haan”, besides his response to the second call being *“Meri Taan Fatt Gai Si”*. The above words reflect that the deceased was under some threat. Even the above fact is mentioned at page 118 of the petition file, wherein, in an email exchanged amongst the petitioner and the deceased, there is a mentioning of some security cover being purveyed besides it being also mentioned that weapons being provided to the deceased. However, yet the petitioner getting surprised since he did not apply for the same. Moreover, a car with last digits “1183” was also found to be available at the relevant time at the crime site. A 800 maruti car chasing the deceased's car is also mentioned therein besides, it is mentioned that a girl and a boy were sitting in the car. However, he states therein that a bag inside the car fell down and that when he opened the said bag he saw a diary, and, therein he noticed that his name with office address and house address was mentioned as they were contract killers. The above email as sent to the present petitioner reflects about the deep trust which the deceased reposed in her. Moreover, it also reflects that some persons were targeting the deceased. Therefore, when the email (supra) is blended, with a disclosure in paragraph 16.40 of the untraced report, that some calls from some quarters caused fright in the mind of the deceased. Resultantly, it can be concluded that some unknown persons were targeting the deceased. However, the roles of all above such unknown persons have not been investigated into with such thoroughness, as was expected. Moreover, neither the owners thereof have yet been established nor they have been put to inculcation, despite prima facie the occupants of the car with last digits “1183” being available at the crime site, and also when the identity (ies) of the boy and the girl who are mentioned by the deceased to be chasing and causing fright in his mind, has

yet remained untraced through employments of best forensic/scientific techniques. Significantly, the CBI does not relate the identities of all the above to the present petitioner.

27. The above lack of thoroughness of investigations by the CBI, appears to be a result of its prima facie making alignments with the aggrieved. Though, the association of the aggrieved in the relevant investigations was necessary and may have also been taken, but, yet with the rider that the Investigating Officer concerned never losing his objectivity and fairness. Contrarily, he has prima facie taken all misfounded clues only from the victim-aggrieved. Thus has completely abandoned as was required to make threadbare and objective investigations. Though it was a legitimate expectation from the investigating agency that the crime event becomes solved. However, though for certain reasons best known only to the Investigating Officers concerned, they since the very inception of the crime event, prima facie appear to only for solving the crime event, but without any prima facie tangible evidence rather singularly choosing to inculcate the petitioner in the crime event. The above endeavour appears to a sequel of the Investigating Agency relegating into the limbo of oblivion all the above referred defects in the investigations as made into the crime event. Therefore also it prima facie appears that objective and fair investigations have not been carried into the crime event.

28. The CBI is the prime Investigating Agency and has to live up to its renowned credentials. However, prima facie in the instant case, it has not lived up to its credentials of being the foremost Investigating Agency in the country, from whom it was but expected that the most impartial and objective investigations are made into the crime event, than its choosing to

only adopt the stand of the aggrieved. Though, the CBI could have taken to seek cooperation from the aggrieved, but only when, prima facie tangible besides credit worthy evidence to support the aggrieved's stand, did make emergence. However, for all reasons (supra) evidence to prima facie inculcate the petitioner is not available on record.

29. Startlingly, the untraced report became filed in the year 2020, whereas, the investigation was handed over to the CBI in the year 2015. Therefore, than the CBI employing the best scientific techniques to inculcate the real offenders, has prima facie chosen to ill indulge in taking the services of tutored and planted witnesses rather merely for solving the crime event through causing the arrest of the present petitioner.

30. Nonetheless, justice has to be done to the aggrieved, and in that regard, the Investigating Officer may in his wisdom but with the leave of the Court concerned, make threadbare further investigations in respect of all the above uninvestigated facets relating to the crime event. The judicial conscience of this Court feels that the above further investigations may ultimately result in all the offenders concerned being brought to inculcation. Moreover, also hence complete justice would be done to the aggrieved besides to the society at large.

CONCLUSION

31. Therefore, this Court becomes constrained to admit the present petitioner to regular bail, especially when at this stage, no evidence has been adduced by the Investigating Agency, suggestive that in the event of the bail petitioner being enlarged on regular bail, there is every likelihood of hers fleeing from justice, and/or, tampering with prosecution evidence.

32. In aftermath, the instant bail petition is allowed, and, the

present petitioner is ordered to be released from judicial custody,

- i) subject to hers furnishing personal and surety bonds in the sum of Rs.2 lakhs each to the satisfaction of the learned trial Judge concerned;
- ii) hers making an undertaking before the learned trial Judge that she shall not tamper with prosecution evidence, nor shall influence the prosecution witnesses besides also hers undertaking to appear before the learned trial Court concerned, as and when directed to make her personal appearance unless validly exempted;
- iii) she shall forthwith deposit her passport with the Investigating Officer concerned and shall leave to foreign lands but with the permission of the Court.

33. The afore observations are meant only for the disposal of the present petition, and, shall have no bearing on the merits of the trial arising from the FIR (supra).

34. The records of the learned committal Court be returned forthwith. Moreover, the records of the CBI be also returned forthwith to the learned counsel for the CBI.

September 13, 2022
gbs

(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No