

CRM No. M-16518 of 2015
DECIDED ON: JULY 22, 2015

SHAMSHER @ SAMSU

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

AND

CRM No. M-16899 of 2015

JOGENDER

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Loveleen Dhaliwal, Advocate
for the petitioner in CRM No. M-16518 of 2015.Mr. Bijender Dhankar, Advocate
for the petitioner in CRM No. M-16899 of 2015.

Mr. D.R. Singla, DAG, Haryana.

JASPAL SINGH, J (ORAL)

Vide this common order, I intend to dispose of two petitions i.e. CRM No. M-16518 of 2015 preferred by Shamsher @ Samsu and CRM No. M-16899 of 2015 preferred by Jogender.

2. Both the petitions have been preferred under Section 439 Cr.P.C. seeking regular bail to petitioner(s) in case FIR No. 434 dated October 16, 2014

under Sections 302 read with 34 IPC, registered at Police Station Sadar, Bahadurgarh, District Jhajjar.

3. Briefly stated the case of prosecution is that on October 16, 2014, ASI Narender alongwith police officials was present at Ladrawan for patrolling. He received an information from MHC of Police Station Sadar, Bahadurgarh over the phone that Satish s/o Krishan had died due to consumption of some poisonous substance and his dead body had been shifted to PGIMS, Rohtak. On this information, ASI Surinder Kuamr alongwith fellow officials reached PGIMS, Rohtak. After collecting the ruqa, he reached the mortuary where Anju wife of Satish Kumar, moved an application to him, wherein it has been alleged that both the accused used to force her husband to sell liquor. When her husband refused, both the accused alongwith Bittoo and Vicky gave beatings to him and injuries marks were also available on his body. They also threatened them with dire consequences. However, they did not report the matter to police. On, October 16, 2014, accused saw her husband going to Punjab Khod for taking medicines. When her husband returned from there, accused Jogender and Samsu caught him on the way and forcibly administered poison to him. However, her husband reached home and disclosed to her that both the accused forcibly administered something to him. He took the pen and paper from her and wrote a note on it. They shifted the deceased to the hospital, however, he breathed his last on the way. On the basis of this statement, present case was registered and investigation was put into motion.

4. The contention of learned counsel for petitioner(s) is that petitioners have been falsely implicated in this case without any evidence. There is also no specific allegation against either of them. The entire story has been concocted by complainant, which is otherwise improbable. While registering FIR, it has been

alleged by complainant that deceased came home while stumbling and wrote the alleged dying declaration in her presence whereas when her statement under Section 161 Cr.P.C. was recorded, she unfolded that deceased came home on motorcycle and handed over the suicide note to her. Even from the contents of dying declaration allegedly penned down by deceased, no case under section 302 IPC is made out against present petitioners. The alleged dying declaration made by deceased reads as under:

“Joginder of Mange Lobri repeatedly gives threats that I will shoot you. The case of Samsu s/o Om Parkash Bichhiyon is that you leave the village or else we will make life hell for you. I told the respectables of the village like Karan Singh s/o Bille Rajbir, the Sarpanch. Sarpanch said that you consider him a man. Tell Samsu s/o Om Parkash that he is a girl. What harm can he cause to us. Samsu s/o Om Parkash has a liquor vend. Joginder s/o Mange Ram has a liquor vend. The father of Joginder is a big man but Joginder is not so well known. Ashok Bittu Vicki Ladrav Kaka are not required.”

5. Both the petitioners were arrested on October 31, 2014. Since then, they are cooling their heels behind the bars. As far as the cause of death in this case is concerned, chemical examiner's report discloses that it was due to consumption of Aluminium Phosphide but it is highly difficult to administer such a poisonous substance as it has pungent smell. As regard suicide note, it was also sent to the Forensic Science Laboratory for examination. Report of Forensic Science Laboratory is not conclusive. Rather it has been opined that it has not been possible to connect the authorship of questioned writing 'March Q' in comparison with supplied standard Mark A to A4. Moreover, no other writing allegedly to have been made by deceased has been submitted to the concerned authority for further comparison.

6. Taking into consideration all these aspects but without expressing any opinion on the merits of case and further that disposal of trial would take sufficient long time, this Court finds it a fit case to extend the concession of bail. Accordingly, both the petitions are allowed and petitioners are ordered to be released on bail to the satisfaction of learned trial Court.

JULY 22, 2015
SHAM

(JASPAL SINGH)
JUDGE