

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

CRM-M-29494-2019 (O&M)

Date of decision: 29.10.2019

Shishpal and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr.B. S. Saroha, Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-32659 of 2019

Allowed as prayed for.

Documents are taken on record as Annexures **P-11 and P-12.**

CRM-M-29494-2019

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No.443 dated 29.07.2018 registered under Sections 302/34 of the IPC at Police Station Safidon, District Jind. The first petition bearing CRM-M-17516 of 2019 was dismissed as withdrawn on 20.05.2019.

Learned counsel for the petitioners submits that the new grounds for filing the present petition is that subsequent to the withdrawal of the first petition, the statements of the prosecution witnesses have been recorded and all the private witnesses including the complainant have been declared hostile.

Learned counsel for the petitioners further submits that as per

the allegations in the FIR, complainant Baljora Singh gave an information to the police that on 27.07.2018 at about 7-8 P.M., accused persons namely petitioners Shishpal, Sonu and Monu, chased the brother of the complainant and caused him injuries by a *Lathi* and then threw him into village pond and due to that reason, he died.

Learned counsel for the petitioners further submits that during trial, statement of PW-1 Kawarbhan has been recorded in which he has stated that deceased had consumed liquor and he fell down in the pond and died due to drowning and this witnessed did not support the prosecution version.

It is further submitted that complainant Baljora Singh appeared as PW-2 and has stated that the accused persons present in the Court neither gave any *Lathi* blow nor any beating to his deceased brother. Thereafter, this witness was declared hostile by the public prosecutor and in the cross examination, this witness denied about the application Ex.P-2 and stated that police has taken his signatures on some blank papers. Similar is the statement of PW-5 Baldev that he does not know anything about the case and PW-6 Sultan has also deposed in the same manner.

Learned counsel for the petitioners further submits that PW-7 Ramphal has also stated that he does not know anything about the case and even as per the statement of PW-9, the doctor who conducted the post mortem, the version of the complainant is not proved.

Learned counsel for the petitioners has lastly argued that petitioners are in Judicial custody since 09.08.2018 and all the material witnesses have been examined and only official witnesses remain to be examined, hence, there is no possibility of tampering with the prosecution

evidence.

Learned State counsel, on instructions from SI Gulab Singh has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the petitioners, the instant petition is allowed. Petitioners Shishpal and Monu are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

29.10.2019

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**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No