

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

212

**CRM-M-15599-2020
Date of decision: 17.09.2020**

Vishal @ Kaka

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Daygeesh Kumar Bhatti, Advocate
for the petitioner.

Mr. Harbir Sandhu, Asstt. A.G., Punjab
for the respondent-State.

Mr. Harsh Chopra, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.61 dated 19.04.2020 registered under Sections 304 and 120-B of the Indian Penal Code, 1860 (for short, “the IPC”) at Police Station Navi Baradari, District Jalandhar.

The above said FIR was registered on statement of complainant Roopa Chauhan, who alleged that she is doing the work of Parlour and health of her husband Sandeep Chauhan is not keeping well and he resides at home. She has two sons namely Gagandeep Singh and Amandeep Singh @ Kali. Her younger son Amandeep Singh @ Kali was confined in jail in a case and came from jail on 17.04.2020 on bail. On 18.04.2020 at about 11:00 A.M. her son went to the shop to

take kurkure. After some time, when she called on his mobile number, he told that he would come back in half an hour, but again when she called her son, he did not pick up the call. At about 12:30 P.M. she received a call from unknown person who informed that her son is lying unconscious near 40 Railway Quarter, Jalandhar. She went there along with her brother Rajesh Singh. They took Amandeep Singh @ Kali to Civil Hospital and thereafter to New Rubi Hospital, Jalandhar but he died during treatment. Amandeep Singh @ Kali used to roam with accused Sandeep Singh who along with other accused murdered her son by giving him the overdose of intoxicants. Pursuant to registration of FIR, the police investigated the case and on completion of investigation, charge-sheeted accused Sandeep Singh and Vishal @ Kaka (the petitioner) to face trial under Section 304 and 120-B of the IPC.

The petitioner, being in custody since his arrest, has filed the present petition for grant of regular bail.

The petition has been opposed by the State in terms of replies filed by way of affidavits dated 11.08.2020 and 26.08.2020 of Gurmeet Singh, PPS, Deputy Commissioner of Police (Investigation), Jalandhar and by the complainant in terms of counter filed by way of affidavit dated 09.09.2020 of complainant Roopa Chauhan.

Learned counsel for the petitioner has filed copies of post-mortem report and other relevant documents through e-mail print out of which are taken on record.

Custody certificate has also been filed by the learned State counsel through e-mail print out of which is taken on record.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel for the complainant and gone through the relevant record.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the case on the basis of disclosure statement of co-accused Sandeep Singh that he and deceased Amandeep Singh @ Kali purchased the narcotic powder from the petitioner. The petitioner has nothing to do with drugs. No narcotic drug or psychotropic substance was recovered from the possession of the petitioner. No case under the NDPS Act is pending against the petitioner. Deceased Amandeep Singh @ Kali was a drug addict and known criminal of the area. He remained in jail on allegations of snatching punishable under Section 379-B of the IPC and was released on bail on 17.04.2020. He died on 19.04.2020 in Hospital due to drug overdose. As per post-mortem report there were no external injuries on the body of the deceased and cause of his death was drug overdose. As per FSL report, no demonstrable blood was found in the samples of blood stains taken by the police from the deserted railway quarter from where the deceased was picked up after the alleged incident of drug overdose. There is no incriminating direct or circumstantial evidence against the petitioner as to commission of the alleged offences by him except the disclosure statement of the co-accused which is not admissible in evidence and is not of any evidentiary value against him. There is no other case against the petitioner. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by further detention of

the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that the deceased along with co-accused Sandeep Singh @ Mushu purchased drug from the petitioner and drug overdose was given by co-accused Sandeep Singh @ Mushu to the deceased. In view of the nature of accusation against the petitioner and gravity of the offences committed by him, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Learned counsel for the complainant has argued that as per disclosure statement of co-accused Sandeep Singh @ Mushu, drug was purchased by the deceased and co-accused Sandeep Singh @ Mushu from the petitioner. Co-accused Sandeep Singh @ Mushu had given drug overdose to the deceased. There were injuries on the body of the deceased. Post-mortem was not properly conducted and the injuries on the person of the deceased were wrongly ignored to screen the offenders. The investigating officer did not take samples of the blood on the wall and foam of the sofa from where the deceased was picked up in unconscious condition. Subsequently, under order dated 24.07.2020 passed by the Coordinate Bench, samples of the blood stains were taken and sent for forensic examination but no action was taken against the defaulting investigating officer despite directions for filing of affidavit in this regard. Photographs Annexures P-1 and P-2 taken on different dates show that someone has attempted to wash/clean the blood stains. Photographs showing injuries on the person of the deceased were taken by the police during investigation. FSL report

merely shows that no demonstrable blood was found in the samples but the same does not in any manner exonerate the petitioner. The petitioner along with his co-accused murdered the deceased. In view of gravity of accusation and offences committed, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In response to arguments of learned counsel for the complainant, learned State counsel has submitted that at the time of initial inspection of the spot by the investigating officer no blood stains were found on the sofa or on the ground. Subsequently, the investigating officer along with Mobile Forensic Science Team took samples of the stains from the door and foam of sofa but no demonstrable blood was detected in the same. Post-mortem report, photographs and inquest report did not show any external mark of injury/wound on the dead body of the deceased. The deceased died due to drug overdose and not due to any external injury on his person.

On consideration of the submissions made by learned counsel for the parties and perusal of the material on record and keeping in view the facts and circumstances of the case, nature of accusation and circumstantial evidence against the petitioner, absence of any external injuries on the body of the deceased, prima-facie cause of death being drug overdose, there being no other case against the petitioner and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 coupled with the fact that presence of the petitioner during trial can be secured otherwise also than by detention in custody which not being punitive will not serve any useful purpose but without commenting on

the merits of the case, I am of the considered view that the petitioner deserves concession of grant of regular bail.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

17.09.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No