

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

CRM M-23394 of 2019 (O&M)

Date of Decision: August 21, 2020

1. Junaid AliPetitioner
Versus
State of Punjab Respondent

CRM M-46110 of 2019 (O&M)

2. Gama @ GamiPetitioner
Versus
State of Punjab Respondent

CRM M-50239 of 2019 (O&M)

3. Sharif Mohammad @ ShiaPetitioner
Versus
State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Vishwajit Bedi, Advocate
for the petitioner in CRM M-23394-2019.

Ms. G.K. Mann, Advocate
for the petitioners in CRM M-46110 of 2019 and

CRM M-50239 of 2019.

Mr. N.K. Banka, DAG, Punjab and
Mr. A.S. Sandhu, Addl. A.G.Punjab.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Petitioners, namely, Junaid Ali, Gama @ Gami and Sharif Mohammad @ Shia have come up before this Court in these three different above mentioned regular bail applications moved under Section 439 Cr.P.C being second ones on behalf of petitioners-Junaid Ali and Sharif Mohammad @ Shia and the first one on behalf of petitioner-Gama @ Gami. Since all these bail applications by different accused/petitioners have arisen out of FIR No. 43 dated 20.05.2018 under Sections 365, 302, 201, 120-B and 364 IPC and Sections 25, 27, 54 and 59 of Arms Act registered at Police Station Tarsikka, District Amritsar and are thus being disposed off together.

The present case was got registered by Kasamdin father of deceased Ladi. In his complaint, the complainant alleged that his son Ladi had gone missing on 19.05.2018 and was last seen by him while leaving the house on his vehicle bearing registration No. PB-10-CS-5533 alongwith his friend

Sari to meet his maternal uncle Masur Ali. It was thereafter when the deceased was driving in his vehicle, the complainant during mobile conversation heard some dialogue in Gujjar language of his son, in which, it was deciphered that deceased was saying that he was going to the police station. Apprehending that his son has been kidnapped thereafter, as the mobile phone of the deceased was switched off. The complainant detailed that his son Laadi and Sari had been kidnapped by Nawabdeen, Sheera, Masoom Ali, Baga and Gama. The motive behind this incident explained by the complainant was that son of Gama had died and that Laadi above said had married daughter-in-law of Gama against the wishes of the family and Gama has a grudge against the family of Laadi and had earlier attacked Laadi a number of times. It was during the investigations that in all names of 15 persons cropped up as accused as one of the witnesses had last seen the deceased in the company of these accused persons being ferried in a vehicle. Subsequently, it transpired that the accused had killed Laadi and buried his dead body and few days thereafter exhumed the body and after cutting it into pieces threw it in the river.

Mr. Viswajit Bedi, learned counsel for petitioner Junaid Ali and Ms. G.K. Mann, learned counsel for petitioner Sharif Mohammad @ Shia have submitted that names of these

petitioners have not been mentioned in the FIR and have been subsequently involved by belated supplementary statement which was recorded next day. It is contended that the deceased Laadi was a criminal and had been facing number of criminal cases and might have gone underground to escape his prosecution or could have been eliminated due his enmity with many other criminals. It is forcefully submitted that dead body has not been recovered and there is no positive evidence against these petitioners.

On behalf of the petitioner Gama @ Gami, it is contended that he is suffering from multiple medical complications including COVID-19, for which, reliance is sought to be placed on the medical evidence.

Mr. N.K. Banka, DAG, Punjab and Mr. A.S. Sandhu, Addl. A.G. Punjab have submitted that it is a very heinous crime, whereby, the deceased has been kidnapped and done to death after cutting his body into pieces and thrown off in the the river. It is argued that since accused/petitioners and so the witnesses of the prosecution are all from the same community and if allowed bail, there is every likelihood that they will stifle the trial and, thus, defeat the purpose of fair trial.

Going through the submissions, there is a positive evidence that has come against the accused being in company of the deceased immediate prior to this disappearance of

deceased. Counsel for the two sides do not displace the fact that deceased had entered into a wedlock with daughter-in-law of accused/petitioner Gama @ Gami against the wishes of the family, the fact that has been pointed out by the learned State counsel and without adverting on to the the same, there is positive evidence of eye witness account of the occurrence alongwith circumstantial evidence. The hair recovered purported to belong to deceased Laadi as per the laboratory examination, match with the hair of his father, the present complainant. There are serious allegations against the accused in perpetrating this crime in utmost secrecy and the manner in which it has been executed sends shudders down the spine of an ordinary citizen. The claim of petitioner Gama @ Gami that he is suffering from multiple ailments including COVID-19 is not extenuating circumstance to let off this petitioner who is the axis around which the entire crime revolves.

In view of what has been canvassed, this Court is satisfied if allowed bail there is every liklihood that the petitioners would influence the witnesses who are from the same community and, therefore, this Court deems it expedient to decline the bails. All the bail applications as such are declined.

However, keeping in view the medical evidence as to the state of health of Gama @ Gami directions are issued to

the Superintendent of Jail where he is lodged to ensure that proper treatment of the ailments is given to the petitioner from recognized medical institute of competence and if the petitioner desires to have medical treatment on his own expenses, he be allowed to get the same facilitated.

August 21, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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