

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

(I)

CRM-M-44429-2019

Date of Decision:23.1.2020

BHUPINDER SINGH @ BHINDA AND ANOTHER

.....Petitioners

Versus

STATE OF PUNJAB

.....Respondent

(II)

CRM-M-47735-2019

AMRITPAL SINGH @ TARI

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Aminder Singh, Advocate
for the petitioners.

Ms. Rashmi Attri, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. This order shall dispose of the aforementioned petitions filed on behalf of Bhupinder Singh @ Bhinda, Inderjit Singh and Amritpal Singh @ Tari seeking anticipatory bail in respect of FIR registered against them vide FIR No.157 dated 27.11.2016 under Sections 304-A, 279 IPC and

Sections 302/120-B IPC (added later on), Police Station Bhwanigarh, District Sangrur, wherein at the stage of considering framing of charges the learned Additional Chief Judicial Magistrate, Sangrur has held that a *prima facie* case under Section 302 read with Section 120-B IPC is made out.

2. The present case pertains to death of Balvir Singh regarding which his wife Rajwinder Kaur lodged the FIR in question. In the FIR it has been alleged that complainant's husband Balvir Singh was a labourer. On 4.6.2015, he along with the accused went to the village for the purpose of doing labour work but did not return back in the evening whereas the petitioners had returned back. When the complainant inquired as regards her husband from the petitioners they did not furnish any satisfactory reply and although she had informed the local police but no action was taken at that time. It is alleged that subsequently the accused, in an inebriated state, admitted having murdered complainant's husband and having thrown his dead body in a canal.
3. Learned counsel for the petitioners has submitted that it is a case where dead body of complainant's husband has never been recovered till date and although the police now claims that one unidentified dead body which was recovered on 27.5.2015 from a drain was of complainant's husband but no identification in respect of the same had been conducted or established.
4. It has further been submitted that FIR in question came to be lodged after about 1 ½ years of the alleged occurrence and in fact even the FIR was initially lodged for an offence under Sections 304-A, 279 IPC wherein the

petitioners had been released on bail and had also appeared before the trial Court pursuant to filing of '*Challan*' but subsequently vide order dated 23.10.2019, the learned Additional Chief Judicial Magistrate, while considering framing of charges reached at a conclusion that *prima facie* a case under Section 302 read with Section 120-B IPC is made out, leading to apprehension in the minds of petitioners regarding their arrest.

5. Learned counsel for the petitioners submitted that even as per the case of prosecution there is no eye-witness to the alleged murder and the case is based totally on circumstantial evidence and since the investigation is already complete, custodial interrogation of the petitioners at this stage, in any case, is not warranted.
6. Opposing the petitions, learned State counsel has submitted that since during the course of investigation the investigating agency has recorded statements of three witnesses who had seen the accused in the company of deceased immediately before his death, no case for grant of bail is made out.
7. I have considered rival submissions addressed before this Court. Given the fact that the petitioners had been appearing before the trial Court pursuant to filing of charge-sheet for offence under Sections 304-A & 279 IPC and that the case is totally based on circumstantial evidence, this Court is of the opinion that detention of the petitioners at this stage is not warranted. The petitions, as such, are accepted and interim directions issued vide order dated 31.10.2019 in CRM-M-44429-2019 and order dated 8.11.2019 in CRM-M-47735-2019 are hereby made absolute subject to the condition that the petitioners shall appear before the Trial

Court regularly and abide by any such conditions as may be imposed by the Trial Court for ensuring their appearance regularly in the Trial Court.

8. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

23.1.2020
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No