

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

CRM-M-13633 of 2021

DATE OF DECISION :- July 27, 2021

Shahbaz Khan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Sunny K. Singla, Advocate for the petitioner.

Mr. J.S. Ghuman, DAG, Punjab.

The case has been taken up through Video Conferencing.

This petition for regular bail has been filed by petitioner Shahbaz Khan son of Azhar Khan, aged 22 years, resident of Pathran Wala Mohalla, Bhumsi, Malerkotla, District Sangrur, an accused in F.I.R. No. 121 dated 2.11.2020 registered with Police Station City-II,, Malerkotla, District Sangrur for offences under Sections 304/201/34 IPC.

Briefly stated the facts of the case as per prosecution story are that criminal machinery in this case was set into motion by complainant Musrat Khatoon wife of Late Rustam Alam, resident of Ward No. 16, Hazi Basti, Maltekotla, Tehsil Malerkotla, District Sangrur, who in the statement got recorded with the police stated that she had four daughters and a son namely Mohd. Shahbaz (deceased), who was aged about 16 years. On 1.11.2020, at about 2.30 P.M, present petitioner Shahbaz Khan along with

Mohd. Shahbaz, Umar Gujjar and Mani came to her house and took her son

Mohd. Shahbaz along with them. Her son did not return home till next day morning, therefore, she along with her brother-in-law (devar) Mohd. Subhan started searching for her son, however, at about 4.30 A.M she observed Shahbaz Khan, Mohd. Shahbaz, Umar Gujjar and Mani throwing dead body of her son beside their house and on seeing the complainant and her brother-in-law, such persons fled away from the spot. In her statement, she stated that the aforementioned four persons had killed her son by deliberately giving him overdose of some drug. The dead body was taken to Civil Hospital, Malerkotla.

Formal F.I.R. was registered. Investigation in the case was started. Accused-petitioner was arrested in this case on 2.11.2020. On completion of investigation, challan against him is said to have been filed in the Court, charge has been framed against the accused and out of total PWs cited three PWs are said to have been examined. The information with regard to stage of proceedings have been provided by the State counsel on instructions from ASI Baldev Singh. The petitioner had approached the Court of Sessions at Sangrur seeking regular bail. His such application, which was assigned to Additional Sessions Judge, Sangrur was, however, declined vide order dated 11.2.2021. Feeling aggrieved, he has approached this Court craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has contended that petitioner has not committed any offence.; as a matter of fact, the deceased was a drug addict and had died as a result of taking overdose of the drugs; no external

injury was found on his dead body. He has prayed for acceptance of the present petition. Though learned State counsel has opposed the request but as per the post mortem report no external mark of injury was found on dead body of the deceased and in terms of the FSL report, cause of death was on account of consumption of morphine.

Under the circumstances, the guilt of the accused shall be determined during the trial. The plea put forward by learned counsel for the petitioner that the petitioner had died on account of overdose of drugs cannot be brushed aside lightly, however, if during trial the prosecution is able to establish that petitioner accused along with other co-accused had intentionally made deceased take overdose of drugs resulting in his death then the accused may be dealt with accordingly but as the things stand, he deserves to be released on bail. Since the conclusion of trial is likely to take some time as the proceedings in the Courts are hampered on account of outbreak of Covid-19 and it may take some time for the normal working gets resumed. The custody certificate of the petitioner goes to show that he is not shown to be involved in any other criminal case and he is stated to be aged about 22 years.

Under such circumstances, the petition is accepted and it is hereby allowed. Petitioner Shahbaz Khan is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Sangrur subject to the following conditions :-

- (i) he shall appear in the Court on each and every date of hearing.
- (ii) he shall not give any threat or intimidation to the prosecution witnesses.

- (iii) he shall not leave India without prior permission of the Court and shall surrender his Passport, if he has got one, otherwise to furnish affidavit in that regard.
- (iv) he shall not indulge in any criminal activity.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

(H.S. MADAAN)
JUDGE

July 27, 2021
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No