

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-18144-2021 (O&M)

Date of Decision:-20.5.2021

Sanjay Angrish Sharma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Manvinder Singh Sidhu, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Major Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.243 dated 17.8.2020 at Police Station Sadar Amritsar, District Amritsar under Section 304-A read with Section 34 of Indian Penal Code, wherein offences under Sections 302/376 IPC were added and offences under Sections 376/34 IPC were deleted later on.
2. The FIR was lodged at the instance of William Masih wherein it is alleged that his younger daughter aged about 21 years was doing the course of GNM (Nursing) and was working at Florem Hospital, Majitha Road Bye-pass, Amritsar and was living as a PG (paying guest) in the house of the Manager

Sanjay Sharma i.e. the petitioner. It is alleged that on 16.8.2020 the complainant's brother Sahib Singh received a telephone call that his niece had expired. When the complainant and his brother reached the house of the deceased they found that his daughter lying dead. When they made inquiries from Sanjay Sharma he stated that complainant's daughter had injected something in her body on account of which she had died. The complainant, however, stated that his daughter was not addicted to any intoxicant and she had lost her life on account of negligence of the doctor and Sanjay Sharma and that Sanjay Sharma in order to conceal the same had levelled false allegations that complainant's daughter had herself injected some intoxicant.

3. Learned counsel for the petitioner has submitted that a perusal of the FIR itself would show that the petitioner has no role in the death of complainant's daughter and that infact it is a case where the FIR was initially lodged for offence under Section 304-A only but subsequently offences under Sections 302 and 376 IPC were also added though upon inquiries offence under Section 376 IPC was deleted. Learned counsel has further submitted that the only evidence to substantiate the case of the prosecution as regards offence under Section 302 IPC is in the shape of an extra judicial confession made by the accused before one Punjab Singh, which is a very weak type of evidence. Learned counsel has submitted that the medical evidence also does not support the case of the prosecution inasmuch as the cause of death has been opined to be Asphyxia.
4. Opposing the petition, learned State counsel has submitted that since the deceased had died in the house of the petitioner where she was residing as a PG (paying guest) and since the accused has suffered a disclosure statement before Punjab Singh, no case for grant of bail is made out. Learned State

counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 5 months and that he is not involved in any other case.

5. I have considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case, it will certainly be debatable as to whether it is indeed a case of murder or not. Keeping in view the fact that there is no clinching evidence at this stage as regards the cause of death or to establish the involvement of the petitioner other than the extra judicial confession made before one Punjab Singh, which can only be acted upon in case it is found credible and is also corroborated by some other evidence and since the petitioner has been behind bars since the last more than 5 months and conclusion of trial is likely to consume time, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.5.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No