

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

CRM-M- 18345 of 2021
Date of Decision:-28.05.2021

Baljeet Singh @ Vicky	Versus	 Petitioner
State of Punjab		 Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Preetinder S. Ahluwalia, Advocate, counsel for petitioner.
Mr. Ajay Pal Singh Gill, Deputy Advocate General for State of Punjab.

(proceedings conducted through video conferencing)

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GURVINDER SINGH GILL, J.

1. The petitioner seeks his release on bail in respect of FIR No. 181 dated 24.10.2020 registered at Police Station Ghagga, District Patiala for offences punishable under Sections 304/34 IPC, to which offence under Section 302 IPC was added later on.
2. The FIR in the instant case was registered at the instance of Ajaib Singh wherein it is alleged that Baljeet Singh (petitioner) gave 'Sulphas' tablets to the complainant's son namely Avtar Singh @ Laadi on the pretext that the same was for relieving constipation and on account of consuming the same the complainant's son had expired.
3. It is further the case of prosecution that petitioner Baljit Singh, who is named in the FIR was arrested and who during the course of interrogation

suffered a disclosure statement to the effect that he in connivance with his father Darshan Singh had given 'Sulphas' tablets to the deceased as the deceased was having illicit relation with petitioner's sister.

4. The learned counsel for the petitioner has submitted that he has falsely been implicated in the instant case. It has been submitted that if there indeed was any kind of animosity between the deceased and petitioner, as alleged by prosecution, on account of alleged illicit relations between the deceased and petitioner's sister, then it is highly improbable that the deceased would have consumed some tablets handed over by petitioner particularly when 'Sulphas' tablets which contain Alumunion oxide emit a highly pungent smell. The learned counsel further submits that such tablets can not even be deceitfully administered as has been held by Hon'ble Apex Court in 2003(1)SCC 169. Jaipal Vs. State of Haryana. The learned counsel submits that offence of murder is, thus, absolutely ruled out and that it could possibly be a case of suicide.
5. Opposing the petition, the learned State counsel submitted that since the name of petitioner specifically figures in FIR and who has also suffered a statement during interrogation that he in connivance with his father Darshan Singh had given 'Sulphas' tablets to the deceased as the deceased was having illicit relation with petitioner's sister, no case for grant of bail is made out. The learned State counsel has, however, informed that the petitioner has been behind bars since the last 6 months and 19 days and that he is not involved in any other case.

6. I have considered rival submissions addressed before this Court. The case hinges on the complainant's version which is based on what the deceased had allegedly disclosed to him as regards giving tablets by the petitioner to deceased. The tablets said to be 'Sulphas' tablets, upon chemical analysis have been found to contain Alumunium Phosphide. In Jaipal's case(supra), the Hon'ble Supreme Court while acquitting the appellant in respect of offence under section 302 IPC, on account of lack of circumstantial evidence took note of the opinion given by the doctor during cross-examination and also of an article titled '*Taxicology - Acute Aluminum Phosphide Poisoning in Northern India*' written by Dr. Mitra Basu and Prof. S.B. Siwach, Head, Deptt. of Medicine, Post Graduate Institute of Medical Sciences, Rohtak and published in Current Medical Journal, Vol. I, No. 5, July 1995, to the effect that Alumunium Phosphide poison has a characteristic of strong pungent smell which renders it improbable to be administered deceitfully or to be taken accidentally.
7. A Division Bench of this Court in 2010(3) RCR(Criminal) 112 Anita Vs. State of Haryana, while referring to various medical journals on Toxicology held as follows:

“21. Such extracts from the Journals on Toxicology show that Aluminium Phosphide (celphos) is available in the form of chalky white tablets used as pesticide and rodenticide. When these tablets are taken out of the sealed container, they come in contact with atmospheric moisture and the chemical reaction takes place liberating phosphine gas. All the published works are to the effect that Aluminium phosphide i.e. celphos tablet is not homicidal as it cannot be taken accidentally as it emanates highly pungent smell. In fact, the

Hon'ble Supreme Court in Jai Pal v. State of Haryana, 2002(4) RCR (Criminal) 486 : AIR 2002 Supreme Court 3447, has quoted extensively from Modi's Medical Jurisprudence and Toxicology as well as the paper titled as "Toxicology - Acute Aluminium Phosphide Poisoning in Northern India" written by Dr. Mitra Basu and Prof. S.B. Siwach, Head, Deptt. Of Medicine, PGIMS, Rohtak, and has concluded that Aluminium Phosphide on account of its very pungent smell, which can drive out all inmates from house if left open, cannot be taken accidentally."

8. Keeping in view the opinion of experts as expressed in various journals which have been relied upon by this Court in Anita's case (supra), pertaining to the characteristic pungent smell of Aluminium phosphide and that the smell makes it highly improbable to be administered deceitfully, it will certainly be debatable as to whether the deceased had consumed the tablets provided by petitioner despite the fact that petitioner didn't approve of the relationship of the deceased with petitioner's sister. The petitioner is not stated to be involved in any other case and has been behind bars since last about 7 months. No witness has been examined till date. The conclusion of trial is likely to consume time particularly in the present times when the Courts are functioning restrictively on account of spread of Pandemic Covid-19. As such, no useful purpose would be served by detaining the petitioner behind bars any further.
9. Consequently, the petition is accepted and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

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

28.05.2021
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No