

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

CRM-M-20882-2019 (O&M)
Date of Decision:- 1.3.2021

Mohd. Irshad and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ishan Gupta, Advocate for the petitioners.

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

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners seek grant of regular bail in a case registered vide FIR No.237, dated 23.9.2018, Police Station Bhawanigarh, District Sangrur, under Section 346 IPC (Sections 302, 201, 120-B IPC added later on vide DDR No.44, dated 29.10.2018).
2. The FIR in question was lodged at the instance of Mohammad Hasin wherein it is alleged that they are 6 brothers and that Sonu is one of them who is running cattle business along with his uncle Mohammad Nasar and his sons Mohammad Naushad, Mohammad Shehjad, Mohammad Irshad and Mohammad Iliyas, since the last 5-6 months

at Nabha. It is alleged that on 8.8.2018 complainant's brother Sonu talked to him over phone from Balad Kothi at village Chhaprauli and told him that he would settle the accounts with his uncle Mohammad Nisar and his sons and shall return back within 2-3 days after collecting the money. It is alleged that however, thereafter the phone of his brother remained switched off and he could not be traced. The complainant suspected that Sonu had been detained by his uncle Mohammad Nisar and his sons Mohammad Naushad, Mohammad Shehjad, Mohammad Irshad and Mohammad Iliyas on account of greed of money.

3. Learned counsel for the petitioners has submitted that they have been involved merely on account of suspicion and in fact there is no evidence as on date to show that Sonu had actually been killed.
4. Opposing the petition, learned State counsel has submitted that since the petitioners are specifically named in the FIR and since the accused/petitioners consequent upon their arrest had also suffered disclosure statements, their complicity is clearly evident. Learned State counsel has also submitted that Mohammad Hasin (complainant) in his supplementary statement recorded on 30.10.2018 had categorically stated that Sonu had been killed by accused after hatching a conspiracy and had disposed off his dead body. Learned State counsel has however, informed that the accused have been behind bars since the last 2 years, 3 months and 22 days and that they are not involved in any other case. Learned State counsel has further clarified that even Sonu was not involved in any

other case as had been contended by learned counsel for the petitioner. It has been informed that as on date only 5 out of cited 16 PWs have been examined.

5. I have considered rival submissions addressed before this Court.
6. Keeping in view the fact that it is a case of circumstantial evidence and that the prosecution is mainly relying upon disclosure statements, the admissibility of which would be debatable and while also noticing that the petitioners have been behind bars for a substantial period of 2 years, 3 months and 22 days and conclusion of trial is likely to take time as only 5 out of the cited 16 PWs have been examined, further detention of the petitioners will not serve any useful purpose. The petition, as such, is accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

March 1, 2021
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No