

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

CRM-27498-2021 in/and
CRM-M-33857-2021 (O&M)
Date of Decision:- 8.9.2021

Vishal Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Nirbhay Singh Gill, Advocate, for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

CRM-27498-2021

Learned counsel for the applicant submits that the case of the petitioner is absolutely identical with the case of co-accused Sagar Chauhan and Sahil who have since been granted bail by this Court vide order dated 30.6.2021 and 9.8.2021 (Annexures P-2 and P-3) and that in these circumstances the petitioner also deserves the same relief on the ground of parity and that as such the main case which could not be taken up on the last date of hearing due to heavy cause list may be preponed and taken up for hearing.

In view of the aforestated reasons and particularly the fact that absolutely identically situated co-accused have been granted bail vide order

dated 30.6.2021 and 9.8.2021 (Annexures P-2 and P-3), the application is allowed and the matter is preponed from 26.10.2021 and is taken on Board today itself.

CRM-M-33857-2021 (O&M)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No. 109, dated 14.5.2021, Police Station City Samana, District Patiala, under Section 304 IPC.
2. The FIR in question was lodged at the instance of Krishna Rani, wherein it is alleged that her younger son Vicky Kumar used to do labour work and had been employed in JS Factory, Samana and was on night duty. However, after he left for duty on the evening of 12.05.2021, he did not return back. Upon enquiries made by her, she came to know that Vicky Kumar had accompanied Sahil, Vishal, Magoo @ Rashpal and Sagar Chauhan and had proceeded towards Bhakra canal so as to consume liquor. It is alleged that the said persons purposely asked Vicky to get water from canal while they were aware that the same was risky and Vicky could fall in the canal. It is further the case of the prosecution that later the body of Vicky Kumar was found in the canal.
3. Learned counsel for the petitioner has submitted that even if the allegations as levelled in the FIR are taken to be correct, still no offence under Section 304 IPC can be made out as there is nothing to suggest that there was any intention on the part of the petitioner or

other accused to kill Vicky (deceased). It has further been submitted that at best, it could be a case falling under the scope of Section 304-A IPC, which also would be debatable.

4. Opposing the petition, learned State counsel has submitted that since a person has lost his life which in fact could have been avoided in case the accused had been more careful, no case for grant of bail is made out.
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 the facts of the case would attract an offence under Section 304 IPC. In these circumstances, further detention of the petitioner will not serve any useful purpose particularly when the petitioner is not even stated to be involved in any other case. 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.
7. It is, however, made clear that none of the observations made above shall be taken to be an expression on merits of the main case.

8.9.2021

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No