

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

CRM-M-32518-2020

Date of decision: 05.03.2021

Wazir Singh

.....Petitioner.

vs.

State of Haryana

.....Respondent.

CORAM: - HON'BLE MR. JUSTICE HARI PAL VERMA

Present: - Mr. Gaurav Mohunta, Advocate, for the petitioner.

Ms. Gaganpreet Kaur, Assistant Advocate
General, Haryana.

.....

HARI PAL VERMA, J. (ORAL)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

This is a petition filed under Section 439 Cr. P.C., for grant of regular bail to the petitioner in case FIR No. 186 dated 13.08.2007 registered under Sections 307 and 309 of the Indian Penal Code at Police Station Pundri, District Kaithal, Haryana, wherein on account of custodial death of Virender Singh and Satnam @ Lada, the petitioner has been booked in the said FIR by way of presentation of challan dated 01.08.2020 under Sections 120-B, 167, 304, 330 and 348 of the Indian Penal Code.

Learned counsel for the petitioner has argued that the challan has been presented in this case and as per the challan, the petitioner is being held liable for not conducting search of the

deceased and on account of this lapse, Satnam Singh @ Lada

consumed tablets not only for himself but also gave to Virender Singh. He submits that at the most, the allegations against the petitioner is breach of his duty i.e., negligence. Further more, it is not the duty of the petitioner, being an ASI to make search and such duties are being performed by a constable. For the alleged custodial death, the deceased family has already been awarded compensation of ₹ 5.00 lakhs each by the State Government pursuant to judgement dated 12.01.2011 passed by this Court in CWP-11653-2008 and CWP-65-2010.

The co-accused Baldev Singh and Jai Bhagwan, who had also been challaned, for the aforesaid Sections, having allegedly caused custodial death of Satnam and Virender Singh have already been released on anticipatory bail by this Court. He has referred to the orders i.e., Annexures P-7 and P-10. He submits that petitioner is suffering from various ailments and has undergone heart bye pass surgery.

Learned State counsel has opposed this bail petition on the ground that the deceased died because of consuming *celphos* and it was the duty of the petitioner to conduct a thorough physical check of the accused in their custody. The petitioner has committed serious offence and not entitled to concession of regular bail. She refers to the inquiry reports as referred in the judgment passed by this Court dated 12.01.2011 and submits that the petitioner had allowed private meeting of two outsiders with Satnam unauthorisedly.

I have heard learned counsel for the parties.

Challan in this case has already been presented. The allegation against the petitioner is that he being the police officer has kept two accused in illegal custody in the police station, where he was posted. Both the accused have died during the police custody while consuming *celphos*. No doubt for keeping them in police custody and as a consequence thereof they consumed *celphos*, this court has already taken a serious view of the matter and awarded compensation of ₹ 5.00 lakhs to each family member of the deceased who died in the police custody.

But presently noticing the fact that the petitioner is in custody since 30.07.2020, and the other co-accused have already been admitted on bail, and the trial is not likely to be concluded in the near future as COVID-19 pandemic has further affected the Court proceedings adversely, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

(HARI PAL VERMA)
JUDGE

05.03.2021

preeti

whether speaking/non speaking

yes/no

whether reportable/non reportable

yes/no