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

CRM-M-45750-2021

Date of decision : 15.12.2021

Mohd. Shafeeq and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. J.S. Jaidka, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioners in FIR No.152 dated 22.11.2020 registered under Sections 302, 201 and 34 of the Indian Penal Code, 1860 at Police Station Dehlon, District Ludhiana.

The present petition has been filed by three petitioners i.e. Mohammad Shafeeq (petitioner No.1), Mohammad Zakar (petitioner No.2) and Mohammad Farook (petitioner No.3).

Learned counsel for the petitioners has submitted that as far as petitioner No.1-Mohammad Shafeeq is concerned, he seeks permission of this Court to withdraw the present petition qua petitioner No.1, at this stage.

In view of the above, the present petition is dismissed as withdrawn qua petitioner No.1 only, at this stage.

With respect to petitioner Nos.2 and 3, learned counsel for the

petitioners has submitted that the present FIR was registered on the statement of complainant-Kadar Hussain, in which, he had alleged that his sister-in-law namely Shanu was married with petitioner No.1 about two years ago and around two months back, the said petitioner No.1 had gone to the house of petitioner No.3 and on 10.11.2020, a telephonic call was received by the complainant to the effect that Shanu was sick and on the said day, later in the evening, the complainant was informed that Shanu had died. Then, on 13.11.2020, petitioners took the dead body of Shanu to Mandli District Kathua and buried her dead body and on seeing the photos of Shanu, the complainant got suspicious and thus, got the present FIR registered.

Learned counsel for the petitioners has submitted that petitioner No.1 is husband of Shanu and petitioner Nos.2 and 3 are only the relatives of petitioner No.1. It is further submitted that the FIR had been registered on the basis of suspicion and four material witnesses including the complainant had not supported the case of the prosecution. Specific reference has been made to the evidence of PW1-Kadar Hussain, who is complainant in the present case and is brother-in-law of Shanu, in which he had stated that the accused persons had no role in the death/murder of Shanu and had specifically stated that they had not committed the murder of Shanu. Further reference has been made to the evidence of PW-2, the father of the said Shanu, who had stated therein that he had never got the statement recorded with the Investigating Officer and thus, had not supported the case of the prosecution. Reference has also been made to the evidence of PW3-Zahoor Hussain, who had stated therein that petitioner Nos.2 and 3 had never

confessed anything before him and thus, the plea of the prosecution to the effect that there was an extra judicial confession made before PW3, also does not stand substantiated. Reference has also been made to the evidence of PW4-Raj Kumar, who had stated that he had never met the police and never got the statement recorded. It has further been argued that petitioner Nos.2 and 3 are in custody since 23.11.2020 and out of 13 witnesses, only four witnesses have been examined as yet and thus, the conclusion of the trial is likely to take time, moreso, in view of COVID-19 pandemic. It has further been submitted that petitioner Nos.2 and 3 are not involved in any other case and thus, prays for grant of concession of regular bail to petitioner Nos.2 and 3.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to petitioner Nos.2 and 3 and has submitted that as per the prosecution case, three petitioners had committed the murder of Shanu and further, even 9 witnesses are still left to be examined, out of which, 2 are material witnesses. However, other aspects with respect to the custody of petitioner No.2 and 3 and other four witnesses turning hostile, could not be disputed by the learned State Counsel.

This Court has heard the learned counsel for the parties and has perused the paper book.

As per the FIR, there was no eye-witness to the alleged murder of Shanu and as per the statement of the complainant-Kadar Hussain, petitioner Nos.2 and 3 had been made an accused on the basis of suspicion. When the said complainant-Kadar Hussain had appeared as PW1, he had not supported the case of the prosecution and had rather submitted that

petitioner Nos.2 and 3 have no role in the death/murder of the said Shanu. Even father of the deceased had appeared as PW2, who had also not supported the case of the prosecution. PW3-Zahoor Hussain, who was stated to be a person before whom extra judicial confession had been made, had also not supported the case of the prosecution and had rather submitted that petitioner Nos.2 and 3 had never made any such confession. Even PW4-Raj Kumar had not supported the case of the prosecution. Petitioner Nos.2 and 3 have been in custody since 23.11.2020 and out of 13 witnesses, nine witnesses are yet to be examined and thus, the conclusion of the trial is likely to take time, moreso, in view of COVID-19 pandemic and petitioner Nos.2 and 3 are not involved in any other case.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and petitioner Nos.2 and 3 are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to them not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

15.12.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**