

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

CRM-M-46549-2021 (O&M)
Date of Decision:-2.12.2021

Samrat @ Mithu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rajat Malhotra, Advocate for the petitioner.

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

GURVINDER SINGH GILL, J.(Oral)

CRM-40745-2021

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application are taken on record as Annexures P-3 and P-4 subject to all just exceptions.

CRM-M-46549-2021 (Main Case)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.0124 dated 3.8.2021 at Police Station Koom Kalan, District Ludhiana under Section 304 of Indian Penal Code, wherein offence under Section 201 IPC was added later on.

2. The FIR was lodged at the instance of Prem Khera, wherein he has alleged that his adopted son Vishal Khera was assisting him in his printing and sticker factory. On 30.7.2021 his son Vishal Khera alongwith his servant and Akash went in Breeza Car for delivering goods. While on the way back, Vishal Khera dropped Akash at his home and also dropped the servant at factory premises. However, when his son did not return back home for a long time he made inquiries from his servant, who disclosed that after dropping Akash when they were proceeding to the factory, then 2 youngsters had met Vishal Khera on the way and who sat in their car and after dropping the servant at the factory premises Vishal Khera alongwith the two boys had proceeded in the car. The complainant kept on searching for his son. Later his son was found lying on the front passenger seat of the car in an unconscious condition on Chandigarh Road at Village Chakk Sarwan Nath. Vishal Khera was taken to hospital but was declared dead. The complainant suspected that the two persons, who had accompanied Vishal Khera in his car, one of whom as per the description given by the servant was Vicky @ Lamba had given some intoxicating substance to his son as a result of which he had died. The complainant initially suspected Vicky @ Lamba to be the culprit and had made his statement to the police accordingly at the time of conducting proceedings under 174 Cr.P.C. However, the complainant alleges that later he came to know from his servant Hari Om, who stated that on 30.7.2021 when he was going on his Activa Scooter to fetch medicine for his wife, he had seen Vishal Khera's car parked by the road side in which Vishal babu was sitting on the driver seat while Harjit Singh @ Vicky was sitting on the front passenger seat and Samrat @ Mithu (petitioner) was sitting on the rear seat and that Harjit Singh @ Vicky was telling Vishal Khera that they have got

something good and that Vishal Khera would like the same. It is alleged that thereafter something was administered with the help of a syringe on the arm of Vishal babu by Harjit Singh @ Vicky while Samrat @ Mithu had caught hold of arm of Vishal babu. The complainant alleged that he had made inquiries at his own level and was sure that Vishal Khera had died on account of overdose of spurious intoxicant, which was administered to him by Harjit Singh @ Vicky and Samrat @ Mithu. It is further the case of prosecution that the aforesaid Harjit Singh @ Vicky and Samrat @ Mithu were arrested by the police and during the course of their interrogation they disclosed that they had procured the intoxicant from Kamal @ Billa. Pursuant to said disclosure statement, the petitioner was also arrested.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and it is only on the basis of a supplementary statement recorded after 3 days of recording of DDR in respect of death of the deceased that name of petitioner figured and FIR came to be lodged.
4. Learned counsel for the petitioner has further submitted that apparently it is a case of overdose of some intoxicant and infact even on earlier occasions the deceased, who was an addict, had been admitted in hospital on account of overdose of intoxicants. Learned counsel has thus submitted that it is a case where the deceased had voluntarily consumed intoxicant leading to his death on account of overdose. It has been submitted that the petitioner, in any case, deserves the concession of bail on grounds of parity since co-accused Baldev Raj @ Kamal @ Bill has already been granted bail by this Court vide order dated 22.11.2021 (Annexure P-4).

5. On the other hand, learned State counsel has submitted that the fact that the deceased had earlier been admitted in hospital on account of overdose, was very much in knowledge of the accused and taking benefit of the same they have devised a novel way of killing him by administering him intoxicants in a higher dose. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 4 months and challan already stands presented. It has also been informed that the petitioner is not involved in any other case.
6. I have considered rival submissions addressed before this Court.
7. Although the investigation has concluded and challan has been presented by the prosecution against 3 accused but viscera report is still awaited. The post mortem report, admittedly does not show existence of any external injury and the cause of death would be ascertained after viscera report is received. However, from the facts and circumstances it does appear that it is a case of overdose of some intoxicant, which the deceased could have taken voluntarily or the same could have been administered to him forcibly. However, the said fact can only be determined after evidence is led by prosecution.
8. At this stage, when even viscera report has not been received, it cannot even be said that the intoxicant was spurious or contained some poison. The petitioner otherwise has been behind bars since the last about 4 months and is not stated to be involved in any other case. In these circumstances, further detention of the petitioner will not serve any useful purpose. 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.

2.12.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No