

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

CRM-M-47804-2021 (O&M)
Date of Decision:-22.11.2021

Baldev Raj @ Kamal @ Billa

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. H.S. Brar, Senior Advocate with
Mr. Sumeetpal Singh Sidhu, Advocate for the petitioner.

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

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.124 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 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 (petitioner). The said disclosure statement has been recorded vide DDR No.17 dated 6.8.2021 (Annexure P-5). 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 on the basis of a disclosure statement made by co-accused, which would hardly carry any evidentiary value. It has been submitted that the petitioner has a clean record and is not involved in any other case. It has further been submitted that even if all the allegations as levelled in the FIR and also as per the disclosure statement are taken to be correct, still the petitioner cannot be attributed with any knowledge that the intoxicant supplied by him was going to be administered to Vishal Khera or that the same would result in his death and that in these circumstances, no case under Section 304 IPC can be said to be made out against the petitioner.
4. On the other hand, learned State counsel has submitted that during the course of investigation, the police had collected sufficient evidence to connect the petitioner with the death of Vishal Khera and that even though viscera report is awaited but it is apparent that spurious intoxicant had been procured from the petitioner, which came to be administered subsequently to the deceased

resulting in his death. Learned State counsel has further submitted that during the course of investigation, it had also surfaced from the call-detail record that Harjit Singh @ Vicky had made a call to the petitioner on 30.7.2021 at 12:48 p.m., which would show that the petitioner was in touch with his co-accused.

5. I have considered rival submissions addressed before this Court.
6. Though challan has been filed by the prosecution against all the 3 accused including the petitioner, but viscera report is still awaited. However, from the allegations, it can be said that it is a case of either overdose of some intoxicant or administering of some spurious intoxicant. It is yet to be determined as to whether the deceased had willingly taken the said intoxicant or as to the same was forcibly administered to him. In any case, the petitioner is stated to be supplier of the alleged intoxicant. At this stage, it cannot be said that the intoxicant was spurious or that the petitioner had any intention or knowledge to cause death of anybody by supplying spurious intoxicant. Still further the only evidence against the petitioner is in the shape of a disclosure statement made by a co-accused, the veracity and admissibility of which would be debatable. Although the prosecution relies upon a call-detail record, but apart from a single call between the petitioner and Harjit Singh @ Vicky having been made on 30.7.2021, nothing has been shown to this Court as to whether the petitioner was regularly in touch with the co-accused so as to establish his complicity. The petitioner has been behind bars since the last about 4 months and as per the information furnished by the learned State counsel he has a clean record.

7. Bearing the aforesaid facts and circumstances in mind, in my opinion, it is a fit case for grant of bail. 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.

22.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No