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

Date of decision: 22.02.2022

1. CRM-M No.6196 of 2020 (O&M)

Raj Rani

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.32305 of 2020 (O&M)

Balwinder Singh @ Raju

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Umesh Aggarwal, Advocate
for the petitioner (in CRM-M-6196-2020)

Mr. Brijesh Nandan, Advocate
for the petitioner (in CRM-M-32305-2020)

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

CRM-41347-2021 IN CRM-M-6196-2020

Heard.

Allowed as prayed for.

Documents (Annexures P-5 and P-6) are taken on record
subject to all just exceptions.

CRM-M NOs.6196 AND 32305 OF 2020 (O&M)

Prayer in these 2nd petitions are for grant of regular bail to
the petitioners namely Raj Rani and Balwinder Singh @ Raju, under
Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in
FIR No.201 dated 28.09.2018, for offence punishable under Sections

302, 201 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Jandiala, District Amritsar (Rural).

The earlier ones were dismissed as withdrawn with liberty to the petitioners to file afresh petition, after the statement of the complainant is recorded.

Counsel for the petitioners has submitted that as per the allegations in the FIR, registered at the instance of Jagbir Singh, who appeared as PW-2, it is stated that he is doing the agricultural work and his elder brother Tasbir Singh is working in the Army. On 05.09.2018, Tasbir Singh had come to home after taking leave and thereafter, he had gone to meet his friends by informing that he will come back on the next day. When he did not come back, the complainant and his father Sikander Singh had gone to look out for Tasbir Singh on a motorcycle and when they reached near Mehta Main Road in Fatehpur-Rajputa area, around 04:30 PM, many people were gathered on the other side of the road, looking at the dead body. Both of them stopped there and found that it is the dead body of Tasbir Singh, whose half leg was cut off and there were injury mark on the face, lips and other side of the body. The FIR was got registered against the unknown persons with the aforesaid allegations.

Counsel for the petitioners have argued that during the investigation, the police arrested the petitioner – Raj Rani with the allegation that she was having illicit relations with the deceased, and she had obtained a loan from the deceased – Tasbir Singh, and when the deceased asked her to pay back the loan amount, the petitioner – Raj Rani along with the petitioner – Balwinder Singh @ Raju, killed the

deceased by administering some poisonous substance. It is further submitted that the same version is given by the complainant, while appearing as PW-2 and as per the supplementary statement, it is stated that the petitioner – Raj Rani, has taken Rs.1.00 lac loan from the deceased and he was demanding it back from her. It is also argued that the factum of taking loan in the name of the petitioner – Raj Rani, in the FIR is missing and it was an improvement made while making the supplementary statement.

Counsel for the petitioners have then referred to the statement of PW-12, Dr. Jaswinder Kaur, Medical Officer, who conducted the post-mortem of the deceased. In the cross-examination, this witness admitted that as per the report of the Chemical Examiner, Ex.PX, no poison was detected in the sample, which was sent to the Laboratory. It was also stated to be correct that in the sample of the blood, nothing poisonous was found and in the report Ex.PX, it is not mentioned that Diacetylmorphine was found in any of the sample of the body part of the deceased. In the report of Histopathology, Ex.PW-12/C, it is also opined that she is unable to give any opinion with regard to the Microscopically and as per Ex.PW-12/D, no poison was detected in the Viscera of the deceased.

Counsel for the petitioners have lastly, argued that both the petitioners are in custody for the last 03 years, 04 months and 20 days and all the material prosecution witnesses have already been examined and there is no possibility for the petitioners to tamper with the prosecution evidence.

Reply by way of affidavit of the Senior Superintendent of

Police, Amritsar, is on record and as per the reply, after verifying the facts of the case, the details of the prosecution witnesses and their depositions before the Court is described. It is stated that the trial was delayed sometime due to COVID-19 situation, however, it is again started.

Counsel for the State has also submitted that out of 21 PWs, 12 PWs have already been examined.

After hearing the counsel for the parties, considering the facts especially the statement of PW-12, Dr. Jaswinder Kaur and certain improvements highlighted by counsel for the petitioners in the statement of the complainant, PW-2, Jagbir Singh, and also considering the fact that both the petitioners are in custody for the last 03 years, 04 months and 20 days; the custodial interrogation of the petitioners is not required and the conclusion of the trial will take some time, these petitions are allowed and the petitioners namely Raj Rani and Balwinder Singh @ Raju, are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

A photocopy of this order be placed on the file of other connected case.

(ARVIND SINGH SANGWAN)
JUDGE

22.02.2022
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No