

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

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CRM-M-18173-2022

Date of Decision: 13.09.2022

Anuj Kumar @ Dabbu & others ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Hitesh Chopra, Advocate, for the petitioners.

Ms. Swati Batra, DAG, Punjab,
assisted by ASI Kashmiri Lal.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of regular bail in respect of a case registered against them vide FIR No.98 dated 11.08.2020 at Police Station City Abohar-2, District Fazilka, under Sections 302 & 34 IPC.
2. The FIR was lodged at the instance of Kavita (sister of deceased Surinder Kumar), wherein it has been alleged that on 10.08.2020, her co-villager Anuj @ Dabbu came to their house and her brother Surinder Kumar accompanied said Anuj to Abohar on his motor-cycle. However, Surinder Kumar did not return home till 8.30 PM. Later, Anuj informed complainant's another brother Mohinder Kumar that Vijesh Kumar, Rakesh Kumar and Amit Kumar had consumed beer together alongwith Surinder Kumar at Nand Dhaba, Abohar and thereafter they had a minor altercation and had left Surinder Kumar near Celebration Palace and after that whereabouts of Surinder Kumar were unknown. Later, the dead body of Surinder Kumar was found floating in Maluka minor canal on

Kandhwala road by members of the family of the deceased. The family of the deceased suspected that Anuj Kumar, Vijesh Kumar, Rakesh Kumar and Amit Kumar had given beatings to Surinder Kumar and had thrown him in the canal.

3. Learned counsel for the petitioners has submitted that there is no direct evidence to substantiate the allegations leveled in the FIR and that during investigation the police had collected CCTV footage/s of the Nand Dhaba from which it is evident that all the accused had consumed liquor alongwith deceased and they in an inebriated condition created ruckus and had damaged the counter of the Dhaba and thereafter left the Dhaba. It is also evident that Anuj Kumar had tried to make Surinder Kumar sit on his motor-cycle, but he did not sit on the same.
4. Learned counsel has further submitted that upon post-mortem examination of the dead body, it was found that the injuries found on the dead body were on non vital parts i.e. on hands only and the cause of death was opined to be drowning. Learned counsel has further submitted that an identically situated co-accused Rakesh Kumar had already been granted bail by this Court vide order dated 19.04.2022 (Annexure P-5) and that in these circumstances, the petitioners also deserve the concession of bail.
5. Opposing the petition, learned State counsel has submitted that since CCTV footage does show that accused and Surinder Kumar (deceased) had an altercation, it is evident that the deceased had been done to death by the accused including the petitioners and had taken advantage of the fact that the deceased was drunk and had, thus, thrown him in the canal.

Learned State counsel has, however, informed that the petitioners as on date have been behind bars since the last about 2 years. It has also been informed that as on date 4 out of cited 32 PWs have been examined.

5. This Court has considered rival submissions.
6. It is not in dispute that the cause of death in the present case has been opined to be drowning. The CCTV footage/s show that the accused had an altercation and the deceased had even broken the counter of the Nand Dhaba, which perhaps resulted in injuries on his hand. The report of the Chemical Examiner in respect of viscera examination shows that the deceased had consumed liquor. In these circumstances, it will be debatable as to whether it is a case of culpable homicide or as to whether it is a case where the deceased had lost his life on account of negligence resulting from inebriated condition of the deceased as well as the accused. In any case, having regard to the fact that the petitioners have been behind bars for a substantial period of about 2 years and identically situated co-accused Rakesh Kumar had already been granted bail, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time inasmuch as only 4 PWs out of cited 32 PWs have been examined so far. The petition, as such, is accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

13.09.2022

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**