

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRM-M-28766-2021**

DATE OF DECISION: FEBRUARY 4, 2022

HAKIKAT ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

2. **CRM-M-38208-2021**

NEERAJ ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. K.D.S. HOODA, ADVOCATE
FOR THE PETITIONERS.

MR. BHUPENDER SINGH, DAG, HARYANA.

MR. PARVEEN SHARMA, ADVOCATE
FOR MR. PANKAJ BALI, ADVOCATE
FOR THE COMPLAINANT.

MANOJ BAJAJ, J.(ORAL)

Petitioners have filed their respective petitions under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.282 dated 26.06.2019, under Section 302/34 IPC, Section 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (Sections 120-B, 201, 406, 420, 467, 468 and 471 IPC added later on), Police Station, Safidon, District Jind. Both the petitioners are in custody since their arrest on 11.2.2021 and 14.2.2021, respectively.

The contents of the FIR, as noticed by the Addl. Sessions

Judge, Jind in his order dated 5.07.2021, are as under:-

“In brief the facts of the prosecution case are like that the FIR in the present matter was registered on the basis of application moved through post by one Surajbhan son of Hari Singh, resident of village Sahanpur District Jind (hereinafter referred as complainant) and received in the police station on 03.06.2019. In brief, it is alleged in the application that on 22.01.2019, the son of the complainant was doing the work of paint at the house of Satbir Singh son of Kalia and at about 6.00 P.M. accused Rohtash and Ramesh came to him and told him that Hakikat son of Balwan Singh has called him at his house. The son of the complainant went at the house of Hakikat with them. On 23.01.2019 at about 6.00 A.M. the complainant came to know that his son was found in dead condition in the field of Nimanabad. He reached at the spot and informed the police. Thereafter, accused in collusion with the police obtained the false postmortem report and it was told to him that his son has died due to heart attack but his son has been killed by all the accused. A number of vehicles i.e. Vehicle No.HR-33G-4800, vehicle No.HR-33B-0642, a new tractor bearing Chasis No.T052434735DG Engine No.E2440008 and bearing registration No.HR-33F-7610 are in the name of his son and the daughter-in-law namely Sharmila is nominee. The accused have killed his son in conspiracy among themselves and taken the possession of the vehicles of his son. Action may be taken against accused.”

Learned counsel for the petitioners has argued that the case of the prosecution is based upon circumstantial evidence and the said evidence is also conflicting. It is argued that as per prosecution, the dead body of

victim Kuldeep Singh was found lying in the fields on 23.1.2019 and his father, namely, Suraj Bhan got recorded a DDR alleging that his son died a natural death. According to the learned counsel, subsequently on the basis of the supplementary statement of the complainant, the present FIR was registered on 26.6.2019 and the petitioners have been falsely implicated. Learned counsel for the petitioners has drawn the attention of the Court to the opinion based upon post mortem report dated 23.1.2019, wherein it is mentioned that the victim had suffered no external injury mark over his body and no definite cause of death can be given in this case. Learned counsel has pointed out that subsequent to this opinion, second opinion dated 30.3.2021 was given whereby it was mentioned that the possibility of death of the victim as a result of asphyxia cannot be ruled out. Learned counsel has argued that the said opinion is based upon inferences and would not be enough to substitute the previous opinion. According to the learned counsel, the investigation of the case is complete, but till date even charges have not been framed and further reliance has been placed upon the order dated 12.8.2021, passed by this Court whereby, co-accused of the petitioners, namely, Pardeep has been released on bail. He prays for bail.

On the other hand, learned State counsel assisted by ASI Deepak and learned counsel for the complainant have opposed the aforesaid prayer and argued that the offence is serious. According to them the victim was employed by Hakikat who was working in his fields and he had purchased various vehicles on installments in his name and as per the scheme, after the death of the purchaser, the installments were not required to be paid. However, it is not disputed by learned State counsel that charges

have not been framed so far, as the case is coming up before the trial Court on 14.2.2022 for consideration on charge.

Considering the above background, the length of custody of the petitioner as well as the fact that trial is yet to commence, this Court is of the opinion that the conclusion of the trial is likely to take considerable time, therefore, further detention of the petitioners may not be necessary for any useful purpose, who are presently confined in judicial custody. Apart from it, the co-accused of the petitioner has already been released on regular bail.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail in the above case, subject to their respective furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petitions are allowed.

February 4, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No