

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

205

**Date of decision: 11.03.2022
CRM-M-28726-2021 (O&M)**

RAJA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CRM-M-28814-2021 (O&M)

PAVITTAR @ PITTAR

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. M.S. Sachdev, Advocate
for the petitioner.

Ms. A.K. Khurana, DAG Punjab.

Mr. Vivek K. Thakur, Advocate
for the complainant.

VINOD S. BHARDWAJ. J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

This common order shall dispose of the above-mentioned two petitions, as the same arise out of a similar FIR.

Instant petitions have been filed under Section 439 CrPC for grant of regular bail to the petitioners in case FIR No.194 dated 26.09.2020 under Sections 302, 201 and 34 IPC registered at Police Station Nakodar, District Jalandhar.

Learned counsel for the petitioners contends that the FIR in question has been registered at the instance of the Charanjit Singh, who happens to be the brother-in-law of Abhishek Sahota (since deceased) S/o late Tarsem Lal resident

of Muzafarpur. It is alleged that on 08.09.2020 at about 6:30PM, Abhishek Sahota went to Village Chak Mughlani in the house of his friend Ravi son of Paramjit and from there they went to one *kothi* of non-resident Indian, where Raja (petitioner) was the care-taker. It is submitted that Deepak @ Deepa S/o Paramjit was carrying out the work of Plumber at the said *kothi*. Thereafter, Raja, Pavittar @ Pittar (Petitioner) and Paramjit @ Panda S/o Tarsem Lal came to the said *kothi* on a motorcycle. It is alleged that all persons except Pavittar @ Pittar and Raja consumed liquor as well as intoxicant substance. Petitioners herein went to Fauji Dhaba for bringing meal and after they came back, an altercation took place amongst all of them, wherein, all the accused, with an intention to kill Abhishek Sahota injected an intoxicant substance and threw him along with his scootery and belongings in the Gandhi Bein, Bajuha Khurd on 09.09.2020 at about 1:30/2:00AM. He is stated to have died as a result of drowning.

Learned counsel contends that the petitioners are in custody since 18th October, 2020 and that even though charges have been framed, no evidence has been recorded before the trial court so far. He further submits that there is no recovery effected at the instance of the petitioners. Further reliance is made upon the chemical examination of viscera of the deceased, wherein, it is stated that no intoxicant was detected upon chemical analysis of the viscera. The cause of death is on account of drowning. It is thus contended that the prosecution version is bereft of any merit and that there is no evidence to connect the participation of the petitioners in the commission of offence. Further the medico-legal report/postmortem conducted on the deceased did not show any signs of external injury, which should have definitely occurred in the event any scuffle had taken place before to any intoxicant being administered to the deceased.

Ms. A.K. Khurana, learned DAG Punjab, does not dispute the period

of custody undergone by the petitioners, however, it is submitted that the petitioners were involved in elimination of Abhishek Sahota in the manner as stated in the FIR and that the evidence in the case is yet to be recorded. There is every likelihood that they may tamper with the evidence or pressurize the witnesses from resiling.

Mr. Vivek K. Thakur, Advocate appeared on behalf of the complainant and has strenuously argued that petitioners overpowered the diseased Abhishek Sahota and administered intoxicants. It is further submitted that the release of the petitioners on bail is likely to have prejudicial impact on the proceeding before the trial Court. He, however, could not dispute the fact that chemical report does not suggest presence of intoxicants/drugs in the body of the deceased. He also could not dispute the fact that MLR does not substantiate existence of any injury as alleged and suggested. It is also not disputed that the evidence in the case is yet to commence.

I have heard learned counsel for the parties and have gone through perused the material on record with their assistance.

Considering the circumstances noticed above as also the period of custody of 01 year 06 months undergone by them and coupled with absence of any recovery effected at the instance of the petitioners as well as non-existence of any corroborative circumstances to indicate the active participation of the petitioners in the commission of the crime, I deem it fit and appropriate to enlarge the petitioners on bail.

Accordingly, the present petitions are allowed and the petitioners are admitted on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioners shall not extend any threat and

shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

March 11, 2022
S.Sharma(syr)

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