

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

221

CRM-M-28245-2022

Date of Decision: 22.11.2022

Vishal @ Sunna

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Bikram Chaudhary, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Yogender.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.174 dated 17.05.2021 registered under Sections 302, 379-B, 34 IPC (later on Section 302, 379-B, 34 IPC stands deleted and Sections 304, 404, 114, 188, 328, 109, 120-B IPC and 29 of NDPS Act were added) at Police Station SGM Nagar, Faridabad.
2. The FIR was lodged at the instance of Pawan Khanna, father of deceased Kavish, wherein it has been alleged that on 17.05.2021, his son Kavish left home on a scooty at about 3.30 PM, but did not return back. At about 7.30 PM, complainant's younger son received a telephonic call and the caller disclosed his name as Pintu and informed that he along with Kavish is present at BK Hospital, but the hospital authorities are not admitting Kavish. Upon receipt of said information, the complainant rushed to BK Hospital where Kavish was found lying dead. Pintu was

not seen anywhere in the hospital. It has further been alleged that the wallet of the complainant's son was missing. The complainant alleged that his son has been done to death by Pintu and his associates.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case on the basis of a disclosure statement allegedly made by co-accused Pintu and also on the basis of statements of Manoj and Bunty stated to be eye-witnesses and who in their statements recorded under Section 164 Cr.P.C. have stated that the petitioner on the asking of Pintu had administered overdose of drugs to the deceased leading to his death. It has been submitted that the deceased was an addict and had died on account of overdose of drugs and the petitioner who has been nominated on the basis of disclosure statement cannot be held liable for the same. It has also been submitted that the petitioner has a clean record and is not involved in any other case.
4. Opposing the petition, learned State counsel has submitted that since 2 of the eye-witnesses namely Manoj and Bunty in their statements recorded under Section 164 Cr.P.C. have categorically stated that it is the petitioner who administered drugs to deceased leading to his death, his complicity is clearly evident. Learned State counsel has however informed that final report of the medical experts is still awaited. Learned State counsel has informed that the petitioner as on date has been behind bars since the last about 01 year and 06 months. It has also been informed that none out of cited 37 PWs has been examined till date.
5. This Court has considered rival submissions.

6. Having regard to the facts and circumstances of the case, it will certainly be debatable as to whether it is a case of culpable homicide or as to whether the deceased had taken overdose of drugs on his own accord. In any case having regard to the clean record of the petitioner, who has been behind bars for a substantial period of about 01 year and 06 months and while also noticing that the conclusion of trial will take some time inas-much as none out of cited 37 PWs has been examined till date, further detention of the petitioner will not serve any useful purpose. 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.

22.11.2022

Sangeeta

**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**