

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

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CRM-M-28046-2022

Date of Decision: 08.07.2022

Abhishek @ Abhay

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Varun Goyal, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Janak Raj.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.186 dated 08.11.2021 at Police Station Sadar Nakodar, District Jalandhar, under Sections 302/201/404/34 IPC.
2. The FIR was lodged at the instance of Vishal Kumar, wherein it is alleged that his elder brother Akshay Kumar @ Sonu left home on his bullet motor-cycle on 02.11.2021 at about 1.00 PM, but did not return back. Though they tried to trace him and contacted his friends, but he could not be found. It was on 03.11.2021 at about 8.00 AM that they received an information to the effect that the bullet motor-cycle and the dead body of complainant's brother was lying near a brick kiln situated on the road leading to Village Shankar to Bapara Kalan. The complainant alongwith his brother Manoj Kumar and others went to the spot and found the dead

body of his brother lying there. He found that gold chain, gold earring and cash was missing from his wallet. Upon making enquiries, the complainant strongly suspected that Ashani Kumar, Bunty @ Balram, Abhishek @ Ambo (petitioner) and Surinder Kumar @ Sinder had killed his brother and thrown his dead body at the brick kiln.

3. Learned counsel for the petitioner has submitted that the deceased Akshay Kumar as well as Balram and Ashani Kumar were drug addicts and it is a case of over-dose of drugs. Learned counsel for the petitioner has further submitted that even as per the case of the prosecution based on the disclosure statements of three co-accused i.e. Ashani Kumar, Bunty @ Balram and Surinder Kumar, on 02.11.2021 Ashni Kumar, Balram @ Bunty and deceased Akshay Kumar had taken drugs and were gambling during the course of which heated arguments took place among them. Akshay Kumar, who was in an inebriated state, started hurling abuses. While Balram being angered held left arm of Akshay Kumar, Ashni Kumar administered another dose of drug with an injection and due the over-dose of drug Akshay Kumar died. The co-accused further stated in their disclosure statements that subsequently petitioner Abhishek and Surinder Pal were called at the spot in order to dispose of the dead body of Akshay Kumar and that thereafter the petitioner alongwith Surinder Pal had taken the dead body on their Splender motor-cycle and thrown the same near the brick kiln. Balram is stated to have taken the bullet motor-cycle of the deceased and parked it near the dead body. Learned counsel for the petitioner has submitted that from the aforesaid disclosure statements, it is evident that the petitioner is not attributed any

- role as regards the alleged murder of Akshay Kumar and had come into picture only after the other co-accused realized that Akshay Kumar had died and they called the petitioner and Surinder to help them to dispose of the dead body of Akshay Kumar. It has, thus, been submitted that the petitioner at best can be held liable for an offence under Section 201 IPC and not for an offence under Section 302 IPC and in these circumstances, deserves the concession of bail when he has already been behind bars since the last about 7 months.
4. Opposing the petition, learned State counsel has submitted that all the accused were hand in gloves with each other and since the petitioner had played a pivotal role in making an attempt to dispose of the dead body and to destroy the evidence, he does not deserve any concession. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 7 months and that he is not involved in any other case. It has also been informed that charges are yet to be framed and as many as 18 PWs have been cited.
 5. I have considered rival submissions addressed before this Court.
 6. It is borne out from the evidence collected by the prosecution that the petitioner was not present at the spot, when co-accused Ashani Kumar administered drug to the deceased with the help of an injection and that it is only subsequently that the petitioner alongwith Surinder was called for the purpose of disposal of the dead body. There is nothing on record to suggest that the petitioner had conspired with the remaining accused in any manner so as to cause death of Akshay Kumar. The petitioner otherwise has a clean record and is not involved in any other case. The

petitioner has been behind bars for a substantial period of 7 months. Conclusion of trial will take time inasmuch as charges have not been framed till date and as many as 18 PWs have been cited. In these circumstances, 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.

08.07.2022

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