

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

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**Date of decision: 11.03.2022
CRM-M-44987-2021 (O&M)**

MANISH@MANI

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CRM-M-45002-2021 (O&M)

ASHA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CRM-M-49747-2021 (O&M)

KAMALJEET SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

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

Present : Mr. TPS Makkar, Advocate
for the petitioner in CRM-M-44987-2021 & CRM-M-45002-2021.

Mr. Sandeep Singh Jattan, Advocate
for the petitioner in CRM-M-49747-2021.

Ms. A.K. Khurana, DAG Punjab.

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 three petitions as the same arise out of same FIR, with the consent of the parties.

Instant petitions have been filed under Section 439 CrPC for grant of regular bail to the petitioners in case FIR No.104 dated 03.07.2021 under Sections

304 and 34 of the IPC registered at Police Station Jaito, District Faridkot.

Learned counsel for the petitioners has submitted that as per the prosecution version, the deceased Gurinderpal Singh alias Golu went missing on 30th June, 2021 and that his dead body was identified on 1st July, 2021 at Civil Hospital Jaito. Inquest proceedings under Section 174 CrPC were carried out. There was no suspicion raised about any unnatural death/homicidal death of Gurinderpal Singh alias Golu. It is submitted that thereafter the complainant Mohan Singh (father of the deceased) approached the police and got recorded his statement that he has been informed by the ex-Sarpanch Jasmail Singh that on the day of incident, he had seen the deceased Gurinderpal Singh alias Golu in the company of Kamaljeet Singh (petitioner-herein) and that he saw Kamaljeet Singh injecting some intoxicant into the arm of deceased Gurinderpal Singh, whereupon he started shivering and froth started coming out from his mouth. It is stated that the complainant was also informed by ex-Sarpanch Jasmail Singh that Gurinderpal Singh and Kamaljeet Singh had bought some poisonous/intoxicant substance from Manish alias Mani S/o Kewal Ram and Asha W/o Lachaman (the other two petitioners). The FIR in question was registered on the basis of aforesaid statement, whereupon the petitioners were taken in custody on 3rd July 2021.

Learned counsel for the petitioners argued that no recovery of any nature, whatsoever, has been effected from the petitioner Manish @ Mani and Asha and that there is nothing to connect that any material/intoxicant was procured by deceased Gurinderpal Singh alias Golu and accused Kamaljeet Singh from the petitioners. The same is at best hear-say/suspicion against the petitioners expressed by ex-Sarpanch Jasmail Singh. It is also pointed out that only recovery which has been effected from the petitioner-Kamaljeet Singh is of a syringe and

the motorcycle and no intoxicant has been recovered from him as well. Learned counsel further point to the testimony of PW-1/Jasmail Singh ex-Sarpanch recorded on 06th January, 2021, wherein, he has not supported the prosecution version and has specifically stated that he had not seen Kamaljeet Singh administering any intoxicant by way of injection on Gurinderpal Singh and that he had only seen them together. It is, thus, contended that there is no evidence to show that the petitioners had in any manner committed the offence of culpable homicide not amounting to murder. It is argued that the petitioners have already undergone an actual custody period of 08 months and 7 days and that there is no other case of any nature, whatsoever, pending against the petitioners except for petitioner-Asha against whom a case had earlier been registered under the Excise Act.

Ms. A.K. Khurana, DAG Punjab submits that narcotic substance was found in the body of the deceased upon chemical examination and that recovery of plastic syringe and a motorcycle had been affected from petitioner-Kamaljeet Singh. She further submits that narcotic drug was supplied by the petitioners which was injected upon the deceased, resulting in his untimely death. She, however, could not controvert the fact that there is no recovery affected from the petitioner-Manish @ Mani and Asha, who are alleged to have supplied the intoxicant and that no intoxicant had been recovered even at the disclosure of Kamaljeet Singh. There is no denial also to the deposition of PW-1/Jasmail Singh, who has not supported the prosecution version of last seen. Besides, it is also not in dispute that petitioners have undergone an actual custody period of 08 months and seven days.

I have heard learned counsel for the parties and have gone through the

record with their assistance.

Taking into account the period of custody undergone by the petitioners as also the failure of the prosecution evidence to support the case of the prosecution coupled with absence of any recovery on the disclosure of the petitioners, I deem it appropriate to enlarge the petitioners on bail at this stage.

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