

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51924-2021 (O&M)
Date of decision: 25.04.2022

Mohammad Imran @ Mani

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mikhail Kad, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-7195-2022

For the reasons stated in the application, same is allowed and
Annexure P-6 is taken on record.

CRM stands disposed of.

CRM-M-51924-2021

Prayer in this petition is for grant of regular bail in FIR No.121
dated 02.11.2020 under Sections 304, 201, 34 IPC, registered at Police Station
City-2, Malerkotla, District Malerkotla.

Learned counsel for the petitioner relies upon the order dated
27.07.2021 passed in CRM-M-13633-2021, vide which co-accused Shahbaz
Khan was granted the concession of regular bail, by making the following

observations: -

“...Briefly stated the facts of the case as per prosecution story are that criminal machinery in this case was set into motion by complainant Musrat Khatoon wife of Late Rustam Alam, resident of Ward No. 16, Hazi Basti, Maltekotla, Tehsil Malerkotla, District Sangrur, who in the statement got recorded with the police stated that she had four daughters and a son namely Mohd. Shahbaz (deceased), who was aged about 16 years. On 1.11.2020, at about 2.30 P.M, present petitioner Shahbaz Khan along with Mohd. Shahbaz, Umar Gujjar and Mani came to her house and took her son Mohd. Shahbaz along with them. Her son did not return home till next day morning, therefore, she along with her brother-in-law (devar) Mohd. Subhan started searching for her son, however, at about 4.30 A.M she observed Shahbaz Khan, Mohd. Shahbaz, Umar Gujjar and Mani throwing dead body of her son beside their house and on seeing the complainant and her brother-in-law, such persons fled away from the spot. In her statement, she stated that the aforementioned four persons had killed her son by deliberately giving him overdose of some drug. The dead body was taken to Civil Hospital, Malerkotla.

Formal F.I.R. was registered. Investigation in the case was started. Accused-petitioner was arrested in this case on 2.11.2020. On completion of investigation, challan against him is said to have been filed in the Court, charge has been framed against the accused and out of total PWs cited three PWs are said to have been examined. The information with regard to stage of proceedings have been provided by the State counsel on instructions from ASI Baldev Singh. The petitioner had approached the Court of Sessions at Sangrur seeking regular bail. His such application, which was assigned to Additional Sessions Judge, Sangrur was, however, declined vide order dated 11.2.2021. Feeling aggrieved, he has approached this Court

craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has contended that petitioner has not committed any offence.; as a matter of fact, the deceased was a drug addict and had died as a result of taking overdose of the drugs; no external injury was found on his dead body. He has prayed for acceptance of the present petition. Though learned State counsel has opposed the request but as per the post mortem report no external mark of injury was found on dead body of the deceased and in terms of the FSL report, cause of death was on account of consumption of morphine.

Under the circumstances, the guilt of the accused shall be determined during the trial. The plea put forward by learned counsel for the petitioner that the petitioner had died on account of overdose of drugs cannot be brushed aside lightly, however, if during trial the prosecution is able to establish that petitioner accused along with other co-accused had intentionally made deceased take overdose of drugs resulting in his death then the accused may be dealt with accordingly but as the things stand, he deserves to be released on bail. Since the conclusion of trial is likely to take some time as the proceedings in the Courts are hampered on account of outbreak of Covid-19 and it may take some time for the normal working gets resumed. The custody certificate of the petitioner goes to show that he is not shown to be involved in any other criminal case and he is stated to be aged about 22 years...”

For the sake of brevity, facts are not reproduced again.

Learned counsel submits that two other co-accused of the petitioner, namely Mohd. Shehbaz and Umar Gujar @ Mohd. Umar have also been granted the concession of regular bail vide order dated 18.08.2021 passed

in CRM-M-32567-2021 and the order dated 18.01.2022 passed in CRM-M-34182-2021. It is further submitted that the petitioner is first offender and he is in custody for the last 08 months and 26 days.

Learned State counsel, on the basis of custody certificate, filed in the Court today, has not disputed the factual position.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

[ARVIND SINGH SANGWAN]
JUDGE

25.04.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No