

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

Date of Decision:-18.07.2023

CRM-M-6934-2023

Sumit.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

AND

CRM-M-10462-2023

Rohit Sharma.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Amit Arora, Advocate for the Petitioner
(CRM-M-6934-2023).

Ms. Shruti Sharma, Advocate &
Mr. Pankaj Kumar, Advocate for the Petitioner
(in CRM-M-10462-2023).

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

By this common order I shall dispose of both the
aforementioned petitions as the same have arisen out of one and the same
FIR.

2. The prayer in these petitions under Section 439 Cr.PC is for the

grant of regular bail in case FIR No.0751 dated 31.12.2021 under Sections 302, 34 IPC and Section 201 IPC (added later on) registered at Police Station Mujesar, District Faridabad.

2. The brief facts of the case are that on 31.12.2021 telephonic information was received that a dead body was lying in a dilapidated and abandoned building in Old Press Colony, Faridabad. On this information Inspector Sandeep Kumar along with other police officials reached the spot where they found the dead body of a young boy. Complainant Ashwani Kumar Pandey came to the spot and presented a complaint with the allegations that he was working as security guard of the Press Colony Quarters. ON 31.12.2021 at about 8.00 pm he was present on duty. When he was taking round of the quarters for checking, he saw a dead body of young boy lying on the first floor of the building. No person residing nearby could identify the same. Legal action was sought leading to the registration of the present FIR.

During the course of investigation, the dead body was identified as that of Aman son of Brahm Parkash. The post mortem was conducted as per which the deceased was found to have received the following injuries:-

“ LW of size 1 cm X 1 cm bone deep back of scalp right side extra calavarial hametoma present on further exploration sub dural and subarachnoid hamatoma with contusion of the post frontal cortex of brain right side with infra tentorial hamatoma and coning of hind brain was detected.”

The board of doctors opined that the cause of death in this case would be given after receiving the CE Report from RFSL, Bhondsi Gurugram.

During the course of further investigation the statement of

Naveen (uncle of the deceased-Aman) was recorded on 04.01.2022. In his statement he stated that his nephew Aman had gone along with his friends Rohit Sharma (Petitioner in CRM-M-10462-2023) to Old Press Colony where he met Sumit (petitioner in CRM-M-6934-2023), Manoj @ Mannu and Sunny. All the accused took drugs together and after getting intoxicated the four accused murdered his nephew.

Petitioners-Rohit Sharma and Sumit along with Manoj @ Mannu were arrested on 6.1.2022. They got recorded their disclosure statements admitting their guilt. As per the disclosure statements, Rohit Sharma (petitioner) had gone with the deceased Aman to the quarters of the Press Colony to consume drugs where they had met other accused including petitioner-Sumit. They all consumed drugs. As Aman deceased had taken an extra dose, a quarrel took place amongst them. They pushed Aman, who fell on the floor and got injured on his head after which he became unconscious. They had taken away his mobile phone, some money and his Aadhaar Card. Thereafter Section 302 IPC was deleted and Sections 304 and 201 IPC were added.

Co-accused Sunny Lodhi was arrested and as he was found to be a minor he was produced before the Juvenile Justice Board where he is facing trial.

After the RFSL report was obtained, an opinion of the doctors was sought who opined that the *“cause of death in this case is Intracranial Hemorrhage due to injury to brain which was antemortem in nature and sufficient to cause death. Possibility cannot be ruled out the fall on ground on back with back of head striking on ground can cause such injury.”*

The mobile phone of the deceased was recovered from Rohit Sharma whereas no recovery was effected from Sumit.

3. The Counsel for the petitioner-Rohit Sharma contends that he has been falsely implicated in the present case on the basis of the disclosure statement of his co-accused. The alleged recovery of a mobile phone has been foisted upon him. As the petitioner was in custody since 06.01.2022 and only 02 out of 25 witnesses had been examined so far (02 PWs having been given up), the trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail more so when in the one other case registered him bearing FIR No.247 dated 10.10.2021 he had been granted the similar concession.

4. The Counsel for the petitioner-Sumit has in addition argued that so far as his client is concerned, no recovery has been effected from him and he has clean antecedents with no other case pending against him. Therefore, he too was entitled to the concession of bail.

5. I have heard learned Counsel for the parties.

6. The veracity of the prosecution case against the petitioners shall be established during the course of the Trial. Admittedly, the petitioners are stated to be in custody since 06.01.2022 and only 02 out of 25 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this view of the matter the further incarceration of the petitioners is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioners-**Sumit** son of Sh. Satender and **Rohit Sharma** son of Late Sh. Ashwani Sharma are ordered to be released on bail subject to their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

in writing that they are not involved in any other crime other than the
aforementioned case.

10. In addition the petitioners (or anyone on their behalf) shall
prepare an FDR in the sum of Rs.50,000/- each and deposit the same with
the Trial Court. The same would be liable to be forfeited as per law in case
of the absence of the petitioners from the trial without sufficient cause.

11. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2023
Vinay

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