

274 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:19.09.2023
CRM-M-32433-2023 (O&M)

Ravi @ Shubham

....Petitioner

Versus

State of Haryana

....Respondent

CRM-M-11778-2023 (O&M)

Kapil alias Kala

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Balraj Gujjar, Advocate,
 Mr. Sanpreet Sandhu, Advocate,
 For the petitioner(s).

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioners before this Court seek their release as undertrials in a case bearing FIR No.224 dated 29.08.2022, registered under Sections 302 IPC (Sections 328, 201/34 of IPC added later on) at Police Station, Chhachhrauli, Yamuna Nagar.

2. The prosecution case is that on 29.08.2022, a telephonic information was received in the police Station that a dead body was lying in the forest near Shahpur turn. On this information, SI Som Nath along with HC Parveen Kumar and constable Rajinder Kumar reached at the spot, where Parvinder Singh (complainant-brother of deceased) along with his family were also found. Complainant stated that his elder brother Harpreet Singh was working in Maruti Company, Gurugram. On 26.08.2022 at around 10.00 P.M, his brother had come to his house. On 28.08.2022 at around 10.30 A.M his brother Harpreet Singh went outside on his motorcycle. When he did not come back, complainant tried to contact on his mobile phone, but to no avail. At around 1.30 P.M, he again tried calling Harpreet Singh on his mobile phone. Later Manni son of Jota Singh met them and told them that he saw Harpreet Singh with Sumit @ Bill at around 8.00 P.M near the bridge of Som river. On 29.08.2022, he along with Manpreet Singh, Ajit Singh and Deepak went to the house of Labh

Singh in the search of his brother. Thereafter, all of them went out in search for his brother in all the hospitals of Yamuna Nagar and Jagadhri, but no clue about his brother was found. They, then decided to search the forest and found out his dead body.

2.1 On the basis of the statement of complainant Parvinder Singh (brother of deceased), present case was registered. Investigation was conducted. From the supplementary statement of complainant Parvinder Singh, the names of accused Kapil and co-accused Labh Singh as well as Ravi @ Shubham (petitioner) were also added. Since the accused persons tried to dispose off the dead body of Harpreet Singh, therefore, offence under Section 201 as well as 34 IPC was added. During further investigation, on 03.09.2022 Kapil (petitioner in CRM-M-11778-2023), co-accused Labh Singh and Ravi @ Shubham (petitioner in CRM-M-32433-2023) were also arrested. Petitioners are in custody since 03.09.2022.

3. Learned counsel for the petitioners argue that case is based upon total circumstantial evidence. Petitioners have not committed any crime. Deceased was a drug addict and he himself took heavy dose of drug. They further submit that FIR was lodged after delay and there are numerous contradictions in the FIR. Initially FIR was got registered under Section 302 IPC and later on offence under Sections 328, 201, 34 IPC was added. Names of the petitioners have wrongly been added by local police during investigation.

3.1 They further submit that petitioners are not required for further custodial interrogation. There is no likelihood of petitioners tampering with evidence and/ or influencing prosecution witnesses. Further contend that out of 23 prosecution witnesses, only three have been examined. Trial will take some time to conclude as it is proceeding at a snail pace.

4. On the other hand, learned State counsel opposes the bail petitions. He submits that petitioners have committed a serious offence. In case, petitioners are granted concession of bail, there are chances of their fleeing from justice. He submits that all the accused in connivance with each other administered heavy overdose of drug and murdered Harpreet Singh as he did not pay his share of amount for purchase of drugs. Co-accused Labh Singh is brother of petitioner-Ravi @ Shubham. Six cases of different nature have been registered against Labh Singh including a case of murder. Labh Singh is convict in murder case and

while being on bail, he committed the present crime along with other co-accused including the petitioner-Ravi @ Shubham.

5. In rebuttal, learned counsel for petitioner in CRM-M-32433-2023 draws my attention to para 14 of the affidavit/report dated 16.08.2023 filed by Deputy Superintendent of Police, Yamuna Nagar-III and states that conceded case of the prosecution is that petitioner Ravi@ Shubham was a close friend of the deceased and other co-accused, involved in this case. It is though alleged that petitioner and his co-accused all of them together administered intoxicant overdose of which killed the deceased, but he points out that one Labh Singh, who is also stated to be a co-accused and friend of deceased, has already admitted in his confessional statement before the investigating agency that it was him who had administered fatal dose, if at all, to the deceased. He relies on prosecution version contained in the charge-sheet dated 23.01.2023 which has already been filed before learned trial Court wherein said statement of Labh Singh has been mentioned. Copy of challan/charge-sheet tendered in course of hearing has been taken on record and marked as Annexure 'A'.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. On a Court query, under instructions from ASI Nasru, learned State counsel informs that after filing of challan, charges were framed on 23.01.2023. Out of 23 prosecution witnesses, three have been examined so far.

8. Allegations against petitioners are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioners have already been languishing in jail for more than 01 year, being behind bars since 03.09.2022. They are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/ or influence witnesses.

9. Petitioner-Ravi @ Shubham is stated to be 30-year old family person and in his absence, his family members are living in sheer penury being dependent on him. Whereas, petitioner-Kapil @ Kala is stated to be 24-year old young boy. He has already lost

his livelihood due to prolonged incarceration. Being family persons and having fixed abode, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petitions are allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.

11. Accordingly, petitioners are ordered to be released on bail, if not required in any other case, on their furnishing bail bonds and surety bonds to the satisfaction of Ld. trial Court, where their case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioners are found to be involved or get involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petitions alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

15. A photocopy of this order be placed on the connected case file.

(ARUN MONGA)
JUDGE

19.09.2023
vandana

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