

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

CRM-M-40309-2022

Date of Decision:-20.03.2023

Albert Masih @ Vicky & Anr.

.....Petitioners.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Joginder Pal Devgan, Advocate for the Petitioners.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.144 dated 14.09.2021 under Sections 365 IPC later on offence added under Section 302, 201, 34, 120-B IPC registered at Police Station Sadar Jalandhar, District Jalandhar, Punjab.

2. The present FIR came to be registered at the instance of Gurdeep Singh who stated that on 11.09.2021 his brother Hardeep Singh had left the house without stating anything and later on his phone was switched off. His brother had not come back and a search had been conducted for him. However, he was untraceable.

Based on the aforementioned statement the FIR initially came to be registered under Section 365 IPC. During the course of investigation, the statement of one Kamaljit Kaur wife of Inderjit Singh *Sarpanch* was recorded to the effect that the petitioners had made an extra judicial confession before her stating that they had taken Hardeep Singh on a motor

cycle to the house of Albert Masih (petitioner no.1) where Tony (petitioner no.2) was also present. They all had consumed liquor and after a while started scuffling. Albert Masih injected Hardeep Singh with some intoxicant on account of which he became unconscious and subsequently died. The body was thereafter taken on a motor cycle and disposed of in the river.

The petitioners were arrested on 14.09.2021 and suffered their disclosure statements. The dead body was got recovered and subsequent thereto offences under Section 302, 201, 120-B and 34 IPC came to be added vide DDR No.47 dated 14.09.2021.

3. The Counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. In fact the deceased Hardeep Singh was a drug addict and had died due to an overdose. The report of the Chemical Examiner would reveal that no poison was detected in the viscera and the medical opinion suggested that the petitioner had died due to asphyxia. Therefore, the prosecution version that the deceased had been injected with an intoxicant by Albert Masih runs contrary to the opinion of the medical board. The extra judicial confession purportedly made before Kamaljit Kaur cannot be believed as such a piece of evidence is by itself an inherent by weak kind of evidence. Even otherwise, the petitioner no.2 was a physically disabled person having a disability of 50% as was borne out from the Certificate Annexure P-3. As the petitioners were in custody since 14.09.2021 and none of the prosecution witnesses had been examined so far, they were entitled to the grant of bail.

4. The Counsel for the State on the other hand contends that the allegations levelled against the petitioners did not entitle him to the grant of bail. So far as the petitioner no.1 is concerned, he is involved in one other case under the Gambling Act whereas petitioner no.2 is involved in 03 other

cases including one under the Excise Act and Gambling Act respectively. Therefore, their respective criminal antecedents also did not entitle them to the grant of bail.

5. I have heard the learned counsel for the parties.
6. The veracity of the allegations levelled against the petitioners shall be adjudicated upon during the course of Trial. The petitioners are in custody since 14.09.2021 and none of the prosecution witnesses have been examined so far. Therefore, their further incarceration is not required.
7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioners-Albert Masih @ Vicky son of Alfred Masih & Tony son of Alfred Masih 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.
8. 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 each time that they are not involved in any other crime other than the cases mentioned in this order.
9. In addition, the petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.500,000/- 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 trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 20, 2023
Vinay

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