



CRM-M-30998-2024

1

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

223+298

(I) CRM-M-30998-2024
Date of Decision : August 05, 2024

MANISH

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT

(II) CRM-M-31483-2024

MONU

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. A.D.S. Jattana, Advocate
for the petitioner (in CRM-M-30998-2024).

Mr. Manoj Tanwar, Advocate
for the petitioner (in CRM-M-31483-2024).

Mr. Bhupender Singh, D.A.G., Haryana with
Mr. Abhinash Jain, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. The amenability of both these petitions for being decided through a common verdict originates from them being arising out of a common FIR, besides common relief(s) being yearned therein.

2. To be precise, in both these petitions, the petitioners crave for indulgence of this Court for them being enlarged on regular bail, in case FIR No.55 dated 27.02.2024, under Sections 304, 384, 34, 506 of the IPC, and, Sections 27 and 29 of the N.D.P.S. Act, registered at P.S. I.M.T., Rohtak.



CRM-M-30998-2024

2

ALLEGATIONS IN THE FIR

3. The present FIR derives its origin from a complaint made by one Virender Singh (hereinafter referred to as the 'complainant'). Concisely, the allegations levelled in the FIR are that, owing to overdose of narcotics, the demise of complainant's nephew Hitesh (hereinafter referred to as the 'deceased') has occurred. Petitioner- Monu is alleged to have injected the narcotics to the deceased, whereas, petitioner- Manish is alleged to have supplied the said narcotics.

4. The relevant extract of the complaint (supra), as narrated in the present FIR, is reproduced hereunder:-

"...My eldest brother Satish is working in CRPF and he have two sons. The youngest son of Satish, Hitesh was studying in 3rd year of B. Pharmacy in Baba Mast Nath University, Rohtak. We received an information through phone that Hitesh Kumar was found dead in the room of Monu. On getting the information I alongwith my family reached at the spot on 26.02.2024 where the police was already found present. Our son Hitesh left the house on 23.02.2024 for college and since then he was in our regular contact. He told us on phone that he alongwith Monu son of Ved Pal resident of Riwas District Mahendergarh reached at college together and Gaurav son of Sh. Shyam Sunder r/o of Hudina, District Mahendergarh was already present in the college. We know that our son Hitesh had never taken any drugs. From our sources we came to know that Monu son of Ved Pal used to purchase injections from Manish son of Wazir r/o Village Kartarpur, Indira Colony, Rohtak. He used to take the drugs and inject to our son Hitesh also. Gaurav son of Shyam Sunder also informed us about this and Gaurav son of Sh. Shyam Sunder had made a video of this incident. Monu son of Ved Pal, Gaurav son of Sh. Shayam Sunder and Manish son of Wazir had injected the drugs to our nephew on 23.02.2024 then Hitesh told about this to his father Satish that Manish son of Wazir, Monu son of Ved Pal and Gaurav son of Shyam Sunder used to give him injection against his wishes and he has become habitual of that. On 25.02.2024 Monu son of Ved Pal injected the over dose of drugs to Hitesh on the asking of Manish son of Wazir due to which Hitesh had died. My nephew Hitesh had also lent some money to Monu son of Ved Pal and



CRM-M-30998-2024

3

Gaurav son of Shyam Sunder who used to demand for purchasing the drugs and on refusal they used to threat him....”

SUBMISSIONS OF LEARNED COUNSELS FOR THE PETITIONERS

5. The learned counsels for the petitioners, in their asking for the hereinabove extracted relief, have made the following submissions:-

(i) Except offence under Section 304 of the IPC, all other offences embodied in the present FIR are bailable offences;

(ii) There is no allegation that the petitioners had any motive to cause death of the deceased, rather it was an accidental death, on account of overdose of narcotics;

(iii) Even if the allegations are taken on their face value, yet offence under Section 304 of the IPC is not made out against the petitioners, rather, at the best, it is a case of Section 304-A of the IPC, which prescribes maximum punishment of two years;

(iv) No recovery of any narcotics has been recovered from the petitioners, which could substantiate the case of the prosecution;

(v) Only allegation against petitioner- Manish is that he supplied the narcotics to petitioner- Monu, however, there is no inculpatory evidence with the prosecution to indicate that he did so under a conspiracy to cause death of the deceased;

(vi) Although dead body of the deceased was found in petitioner- Monu's room, however, it is a case of accidental death. Moreover, the deceased was himself a drug addict and even in the video, which was recorded on a previous occasion, the deceased can be seen enjoying while taking drugs;

**CRM-M-30998-2024****4**

(vii) Petitioner- Monu has been behind the bars since 28.02.2024 and petitioner- Manish has been behind the bars since 07.05.2023;

(viii) The Final Report was presented on 27.05.2024, however, charges have not yet been framed. Therefore, when trial is not likely to conclude anytime soon, keeping the petitioners behind the bars would serve no gainful purpose;

SUBMISSIONS OF THE LEARNED STATE COUNSEL

6. Although the learned State counsel has opposed the grant of bail to the petitioners, on the ground that, there are specific allegations: (i) regarding narcotics being injected to the deceased by petitioner- Monu, which were supplied by petitioner- Manish; and (ii) regarding recovery of deceased's dead body from the room of petitioner- Monu; however, on instructions imparted to him by the official concerned, he does not dispute the fact that charges are yet to be framed in the present case.

7. The learned State counsel has also filed separate replies, on affidavit of Vidyanand, Deputy Superintendent of Police, Sampla, District Rohtak, which are taken on record. He has also filed the custody certificate of the petitioner- Manish, which is also taken on record.

REASONS FOR ALLOWING THE INSTANT PETITION

8. This Court has heard the submissions made by the learned counsels for the parties and perused the record. Be that as it may, this Court is of the view that the present petitions deserve to be allowed. The reason for forming this inference generates from the factum that:- (i) cause of death in the present case is overdose of narcotics, therefore, "*whether narcotics*

were forcefully injected to the deceased by petitioner- Monu or the same were voluntarily got injected by the deceased” is a moot question, which requires its becoming adjudicated by the learned trial Court after appreciation of evidence, as may become adduced by the parties; (ii) *“whether the petitioners had any intention to cause death of the deceased or not and whether penal provisions of Section 304 or 304-A of the IPC are attracted against the petitioners”* is also a moot question to be decided by the learned trial Court; (iii) no narcotics has been recovered from the petitioners; (iv) uncontestedly, the petitioner- Monu has been behind the bars since 28.02.2024 and petitioner- Manish has been behind the bars since 07.05.2023; (v) trial is not likely to conclude anytime soon, inasmuch as, despite the Final Report becoming filed on 27.05.2024, charges have not yet been framed, therefore, subjecting the petitioners to prolonged incarceration would serve no fruitful purpose.

9. Therefore, without commenting upon the merits and circumstances of the present case, the present petitions are **allowed**. The petitioners are ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petitions only.

August 05, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned
Whether Reportable

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Yes/No
Yes/No