

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-47336-2023
Date of decision: 22.02.2024

Abhishek Goswami @ Abhishek GosainPetitioner.

Versus

State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sumit Saddi, Advocate,
for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.
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SANJIV BERRY, J. (ORAL)

1. Custody certificate dated 21.02.2024 filed by learned State
counsel is taken on record. Copy thereof supplied to the other side.
2. The instant petition has been preferred by the petitioner
under Section 439 of the Code of Criminal Procedure for grant of
regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
91	20.08.2022	304, 323, 148, 149 IPC	Division No.4, Ludhiana

3. It is, *inter alia*, contended by learned counsel for the
petitioner that the petitioner is innocent and has been falsely implicated
in this case and is in custody since 21.08.2022. He submits that no

specific overt act has been attributed to the petitioner and even as per the medical record placed on file, the cause of death in this case was 'diseased condition of the organs described'. He has referred to the order dated 10.01.2024 passed in CRM-M-61058-2022, '*Kalis vs. State of Punjab*' and further the order dated 15.01.2024 passed in CRM-M-23250-2023, '*Shatrughan Mandal vs. State of Punjab*', whereby similarly situated co-accused namely Kalis and Shatrughan (*supra*) have been granted the concession of bail by this Court. He thus prays for grant of concession of bail to the petitioner on the ground of parity.

4. *Per contra*, learned State counsel, has not disputed the factum of cause of death of the deceased as reported by the Doctor and that similarly situated co-accused (*supra*) has been granted the concession of bail by this Court. He submits that challan in the case has already been presented and only 5 out of 17 witnesses cited by the prosecution have yet been examined.

5. Heard learned counsel for the parties and perused the record.

6. After considering the rival contentions and perusing the record, it transpires that the case of the prosecution in a nutshell is that on 19.08.2022 at about 10:30 PM, the complainant along with his family was present in his house. On hearing noise, the father of the

complainant Bharat Bhushan Sharma went outside, where 9-10 unidentified boys were raising noise. The father of the complainant requested them not to do so, but they started beating him and one of them pushed him, as a result of which, the father of the complainant fell down. He was taken to the hospital, where he was declared brought dead.

7. It is not disputed that the cause of death of the deceased is not due to the alleged injuries, but due to 'the diseased condition of the organs'. No specific overt act has been attributed to the petitioner and since the challan has been presented, the petitioner is not required for further investigation. Admittedly, he is in custody since 21.08.2022 and the prosecution has cited 17 witnesses out of which only 5 have been examined and the criminal liability, if any, of the petitioner, could only be determined after the conclusion of trial, which may take sufficient long time. In the circumstances, no purpose would be served by detaining the petitioner any longer.

8. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and

every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Petition stands disposed of.

11. Pending miscellaneous application(s), if any, stand disposed of.

22.02.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |