

CRM-M-39608-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39608-2024
Reserved on: 09.01.2025
Pronounced on: 30.01.2025

Kanwarjit Singh Sandhu @ Goldy ...Petitioner

Versus

State of U.T. Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT Chandigarh with
Mr. Shubham Mangla, Advocate
for the respondent- UT.

Mr. Ketan Chopra, Advocate
for the victim.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
71	06.09.2021	Sector 49, Chandigarh	302, 328, 120-B IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 20 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply dated 19.10.2024 filed by the State, which reads as follows:

“2. That the brief facts of the case are that the FIR was registered on the complaint of Navneet Dhillon, wherein she alleged that on 04.07.2020, Raghuvir Puri, friend of her husband, called her and informed her that her husband Brijesh Negi was not well and was suffering from stomach pain. He further informed that they were in Fortis Hospital, Mohali and asked her to come there. She also had a conversation with her husband on telephone who asked her to get the medical insurance card for his treatment. She reached the Emergency of Fortis Hospital, Mohali within

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10 to 15 minutes, where her husband met her and disclosed that he was having severe pain in his lower abdomen and he had consumed liquor along with Mr. Raghuvir Puri, Mr. Sardana and present Petitioner Mr. Goldy in Sector 63, Chandigarh. Thereafter, she met with the Doctor who asked about stone history of her husband and Doctor then told her that he had given two injections to relieve the pain and was taking her husband for the ultrasound. When she was about to go for ultrasound with her husband, Goldy (present Petitioner), third friend of her husband handed over to her, the keys of her husband's car and told that he is leaving. Mr. Puri told that Dr. Rishi Sood was his relative and assured her not to worry. Thereafter, she rushed to the ultrasound room, where she found that two attendants were rushing her husband towards emergency and her husband was lying unconscious. She was not allowed to enter emergency by the Guard. She further alleged in the complaint that after few minutes Dr. Rishi Sood came outside and informed her that her husband had a major heart attack and they were going to treat him. After 10 to 15 minutes, when Mukesh Kumar Goyal, one of her husband's childhood friend reached Fortis Hospital Mohali, Dr. Rishi Sood again came out and informed them that her husband was no more. Dr. Rishi Sood was well in touch with the friends of her husband, who knew each and everything about the incident and after few minutes of death of her husband, all three above said friends of her husband reached at hospital again. Goldy (present Petitioner) went inside the Emergency and returned along with Dr. Rishi Sood. Mukesh Kumar Goyal asked Dr. Rishi Sood about the cause of death of her husband, who informed them the reason, was Covid-19. He further informed that death was AR due collapse of lungs and then told them that it was due to cardiac attack. Therefore, they decided to go for the post mortem examination of her husband to know the actual reason/cause of death. She moved complaint in Police Station, Sector 49, Chandigarh for post mortem and on her request, team of Doctors conducted post mortem examination on the dead body of her deceased husband at Government Medical College and Hospital, Sector 32, Chandigarh, report of which came in the month of February, 2021 and on her day to day follow up, finally they came to know about the post mortem report of her husband in the month of June 2021 through Police Station, Sector 49, Chandigarh, wherein it was opined that 'phosphide'/'Aluminium Phosphide' had been detected in stomach, small intestine, liver, spleen and half of each kidney and blood of deceased Brijesh Negi. Thereby, a request to take necessary action has been made."

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4. On 08.11.2024, this Court had passed the following order:-

“Petitioner's counsel one of the primary argument is that the petitioner is entitled to similar treatment which was granted to two similarly placed co-accused who were not even arrested. However, the petitioner with the similar evidence has been arrested whereas other persons were exonerated.

Mr. Manish Bansal, P.P. U.T. Chandigarh, on the other hand submits that this argument is incorrect because petitioner's counsel is drawing inference from the status report filed by way back in a direction petition. He further submits that further investigation is carried out in the matter and also referred para 10 of the status report wherein it has been mentioned that supplementary challan against other co-accused will be filed after the completion of the investigation.

Counsel for the respondent U.T. Chandigarh specify on the next date how much time it will require for completion of investigation qua the other accused.

List again on 5.12.2024.

Fresh status report about the investigation shall be filed by the Superintendent of Police concerned on the next date of hearing.”

5. Pursuant to the above said order, fresh status report dated 05.12.2024 was filed.

6. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

7. The State's counsel opposes bail and refers to the reply. Complainant's counsel also opposes the bail.

8. Petitioner's counsel submits that petitioner had taken the deceased to the hospital, called his wife and voluntary went for polygraphy test, which shows his bonafide. Counsel further submits that Union Territory stand that petitioner was trying to flee, is incorrect because he goes abroad for business purposes and has referred to para 8 of the petition, where a large number of foreign travels along with dates were mentioned. An analysis of para 8 clearly suggests that the doubt of the investigator about petitioner's trying to flee, might be ill founded because the petitioner has been travelling earlier also and he was not going to abroad with intention of flee or to delay the trial. However given above, the petitioner shall not be denied bail on the grounds that he can fugitive. However, petitioner's bail on merits is being considered on the following paragraphs after analysing the pleadings, reply and the arguments made by counsel for the parties.

9. It is undisputed that petitioner had voluntarily offered his narco analysis test. He was even taken to Gandhi Nagar for conducting test but the same cannot be conducted

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because of the petitioner's medical condition. The petitioner's conduct in voluntarily undergoing narcotics would create a situation in his favour.

10. It would be appropriate to refer to para 7 of the reply dated 19.10.2024, which read as follows:

"It is submitted that the Polygraphic Test of Raghuvir Puri and Rajiv Sardana was conducted on 22.08.2023 to 26.08.2023.

However, Polygraphic test of present Petitioner could not be conducted as he had gone abroad. Moreover, the Narco analysis test of present Petitioner and Raghuvir puri could not be conducted as they were declared unfit for the same and the other person Rajiv Sardana refused to undergo Narco Analysis test. Present Petitioner was called to join investigation time and again but, he did not come forward to join the investigation as he went to abroad. Ultimately, look out notice was issued against him. However, present Petitioner was arrested on 18.06.2024 at AirPort and since then he is in custody in this case."

11. It is also undisputed that the incident took place during Covid 19 restrictions were in place. There was an element of fear all around and petitioner had taken the deceased to the hospital and also informed his wife. Given above, petitioner's further custody shall not be justified subject to the condition that petitioner shall surrender his passport and whenever he needs to travel abroad for business purpose, he would file an application before the concerned trial Court, which shall consider such application and release the passport as many s dates in the opinion of the trial Court, is appropriate.

12. It is clarified that if the petitioner absconds from the trial or tries to flee, then this bail shall be cancelled.

13. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 16 of the bail petition, the petitioner has been in custody since 18.06.2024 and accordingly his custody is approximately 07 months in this FIR. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

14. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

15. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

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16. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

17. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

18. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

19. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

20. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

21. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

22. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.