

State vs. Gaurav & ors.

29.7.2026 Present: Ms. Pooja Dhiman, Ld.PP for the State.

All accused with Ms. Ranjna Patyal vice Sh. Varinder Dharmani, Adv. for accused Mohit Jaswal and Gaurav and Sh. Rishi Bhardwaj, Adv. for accused Sumit Kumar.

Vide this order two applications under section 227 of Cr.P.C, one filed by accused Gaurav (hereinafter referred as accused A1) and Mohit (hereinafter referred as accused A2) and another fled by accused Sumit Kumar (hereinafter referred as accused A3) are disposed of.

2. As has been averred in each of the application, the version of the police is that the accused A1, A2 and the deceased Avinash were drug addicts. On 17.2.2019, they telephonically called accused A3 and requested for heroin. They all then reached village Arniala near the house of accused A3 and purchased the drugs. Thereafter accused A3 left for his house and they went towards village Lower Kotla Kalan and took dose of contraband/heroin by injections and other methods. After injecting drugs, the health of deceased deteriorated whereupon accused A1 and A2 left him at the spot and went away. Accused A2 took and threw cell phone of the deceased and the same could not be recovered. Section 201 of the IPC was inserted in the case. As per police, four syringes were recovered at a short distance from the body of the deceased. The police also collected soil samples and cloth piece (Parna) stained with vomit of the deceased from that place. However as per SFSL report no drug or poison was found in the syringes, the soil samples and cloth piece stained with vomit. Blood samples of the accused were also obtained and were sent for chemical analysis. No drug however was detected therein. Moreover as per RFSL report Alprazolam drug was detected in the

heart, lungs, kidney, liver, spleen, stomach, intestine and blood of the deceased, but heroin (diacetylmorphine) was not found/detected in his blood or organs. The accused are alleged to have committed culpable homicide not amounting to murder u/s 304 IPC, however ingredients thereof are not present in the present case. The prosecution version and the evidence collected by the police rather are self contradictory. The police has alleged the death of the deceased due to overdose of heroin by injections whereas as per RFSL report no such drug was detected in the body of the deceased. Similarly, no offence is made out u/s 201 IPC. Cell phone is not the evidence of the offence. Even otherwise cell phone is not important but phone calls are important. Police had not relied upon any call detail of the deceased. Likewise Section 34 of IPC is not made out as there is no evidence on the record showing prior meeting of mind of the accused. The police has concocted a false story of administration of injecting heroin to the deceased, but has failed to collect any cogent or even any prima facie evidence in this regard on the record. Hence, the application.

3. The prosecution contested both the applications by filing similar replies averring therein that a prima facie case is made out against the accused under the relevant sections on the basis of evidence collected by the investigating officer. The witnesses including the complainant specifically have named the accused. Some tablets were also taken into possession by the Investigating Officer and as per RFSL report No.330 (a) RFSL CHEM (290)19 also alprazolam tablets were detected on the analysis. Moreover expert opinion was taken from RFSL for the possible reasons of negative findings of evidence of heroin in the biological specimens and as per opinion the drugs after absorption

in the body might detoxify besides there being chemical changes in tissues/biological matrices in postmortem decomposition etc. The prosecution thus prayed for the dismissal of the applications.

4. Heard. Record perused.

5. The case of the prosecution is that on 18.2.2019 Pradhan Gram Panchayat Kotla Kalan telephonically informed the police about the death of the deceased. Immediately the police proceeded to the spot and seized slipper of the deceased, one towel (parna), four syringes, six tables of narcotics substance, blood on the motorcycle and motorcycle of the deceased NO.HP20F-9631 lying on the spot, vomit and soil from the wheat field as well as vomit and control sample of soil from the passage vide separate memos. Body of the deceased was sent to RH Una for postmortem and postmortem report was obtained. Viscera of the deceased and physical evidences collected from the spot were sent to RFSL Dharamshala for analysis. Body of the deceased was handed over to his relatives. Proceedings u/s 174 Cr.P.C were initiated.

6. On 22.2.2019 the complainant Pinki Devi, the mother of the deceased moved a complaint to the police alleging that on 17.2.2019 she along with the deceased went to attend the Chawarkh ceremony in the house of Jeewan Singh. Accused A1 and A2 also came thereto. After attending the ceremony, she returned to her house. The deceased along with accused A1 and A2 also came to his house and kept sitting therein. Around 4:00 PM they all on a motorcycle went to watch match of Kabaddi at village Dehlan. The deceased did not return home till the morning of 18.2.2019. She came to know that he had died. She was completely sure that accused A1 and A2 administered an overdose of heroin to him which caused his death. On the basis of complaint,

a formal FIR u/s 304, 34 IPC finally came to be registered.

7. During investigation, the accused were medically examined. Their blood samples were preserved and sent for chemical analysis.

8. On interrogation accused A1 and A2 revealed that on the fateful day, the deceased along with the accused A1 and A2 on his motorcycle went to watch Kabaddi match at Dehlan. Around 7:00 PM when they reached Rakkar Colony accused A1 from his mobile No.70184-81908 telephonically contacted accused A3 and said that they wanted to buy heroin as their intoxication was wearing off. Around 7:15 PM when they reached near SSRVM school, accused A1 telephonically told accused A3 that they were coming to take heroin. They then went to the land adjoining to the house of accused A3. Accused A1 gave one thousand rupees to accused A3 and accused A3 gave some heroin to him. The deceased along with accused A1 and A2 thereafter went to Lower Kotla Kalan. Accused A1 then injected heroin to the deceased and thereafter along with accused A2 consumed the remaining heroin. After consumption of heroin health of the deceased deteriorated whereupon both the accused A1 and A2 fled away from the spot. While fleeing accused A2 took the mobile phone of the deceased along and broke and threw sim thereof.

9. On biological analysis human blood of group 'A' was detected in the blood sample of the deceased and blood lifted from the spot and the motorcycle and blood was detected in traces in all the four syringes with needle, however the amount of blood was insufficient for serological examination.

10. On chemical analysis of the viscera of the deceased and the physical evidences collected from the spot, Alprazolam (a benzodiazepine drug) was detected in heart, lungs, liver, spleen,

kidney, stomach, intestine, blood of the deceased, vomit collected from wheat field and the path and wet paper which had fungal growth and contained two round shaped tablets, however the same was not detected in the rest of the physical evidences and no other poison was detected in any of the preserved samples.

11. On chemical analysis of the blood samples of the accused A1,A2 and A3, no drug was detected therein.

12. On clarification of the police as to why heroin was not found in the blood of the deceased, Deputy Director, Northern Range, RFSL Dharamshala, Distt. Kangra, HP opined that:-

1. The survival time between the administration of drug(s) and the death may permit biotransformation and excretion from the body.
2. In postmortem decomposition, drug(s) present in the tissues/biological matrices may undergo chemical changes.
3. The drug(s) after absorption in the body may get detoxified.

13. Finally on completion of investigation, challan u/s 304, 201, 34 IPC was prepared and presented against the accused in the court.

14. What thus has emerged on the record is that:-

- none had seen the accused committing the alleged offence;
- the complainant had moved complaint to the police regarding alleged involvement of the accused in the offence five days after the alleged occurrence and four days after her

- coming to know about death of the deceased;
- the very basis of the accusation against the accused was just a belief of the complainant and nothing more;
- heroin was not detected in viscera of the deceased nor in the physical evidences including the vomit (s) of the deceased and four syringes collected from the spot;
- as per Forensic Reports, Alprazolam (a benzodiazepine drug) rather was detected in the viscera and blood of the deceased and vomit(s) collected from the wheat field and the wet paper, which had fungal growth and contained round shaped tablets;

15. In the totality of the aforesaid facts on the record, **no prima facie case is made out** against any of the accused/applicant. It is **more so when:-**

- the prosecution nowhere has alleged that the accused forcibly administered/gave Alprazolam to the deceased and thereby caused his death;
- nor struggle marks on the spot nor on the body of the deceased nor even on the person(s) of the accused A1 and A2 and for that matter even accused A3 are alleged to have been found/observed;
- re-opinion of the Forensic Expert qua negative findings of heroin in biological examination of the deceased was based on possibilities and was not concrete or specific

- timely postmortem examination and preservation of body samples of the deceased and collection of physical evidences from the spot, as claimed by the prosecution ruled out any possibility of negative findings on the samples on analysis.

16. Being so material on the record is not sufficient to establish the basic connection between the alleged offence and the accused. Rather the evidence collected is so weak and vague that even if unrebutted it would not result in conviction of any of the accused. Thus no prima facie case to pursue with the trial is made out. Hence, both the applications filed by the accused are allowed and all the accused are discharged.

17. File after due completion be consigned to record room.

Announced
29.7.2026

(Kanta Verma)
Additional Sessions Judge (II),
Una, District Una, HP.