

CNR No: PBPT010056452022

CIS No: BA/1719/2022

KUNAL VS STATE OF PUNJAB

Present: Sh. MS Kohli, Advocate for the applicant/accused
Sh. Devinder Goel, Public Prosecutor for the State
with ASI Pawan Kumar.

Upon notice, Sh. Devinder Goel, Public Prosecutor put appearance on behalf of respondent/State and contested the bail application.

2. Heard. This is an application u/s 438 Cr.P.C. seeking pre arrest bail moved on behalf of bail applicant Kunal in FIR no. 95 dated 15.05.2022 under section 304/34 IPC registered at police station Civil Lines, Patiala.

3. FIR was got registered on 15.5.2022 by Tejpal son of Attar Singh by stating that one of his sons Anuj, who was 27 years of age, on 12.5.2022 at about 2 pm, riding a motorcycle no.PB11CZ-1797, he went to office of Regional Transport Authority, Patiala in connection with a challan. In the evening at 7.00 pm he saw his abovesaid son alongwith Gula son of Balor Singh and Kunal resident of Kalar Colony roaming around in Badungar market. At that time, Anuj and Gula were riding a separate motorcycle while Kunal driving other motorcycle. When his aforesaid did not return home, he started searching for him. He suspected that his son might have been kept in confinement by somebody. Consequently initially FIR u/s 346 IPC was registered and investigations were started.

During the course of investigation on 21.5.2022 Surinder Kumar son of Jagat, an approved vendor of BSNL, made statement to the police that Anju, who was missing was his *sala* (brother-in-law) and that after lodging the FIR Ranjit Singh @ Gula approached him to apologise that he alongwith Anuj and Kunal had gone to the canal situated at Vill. Dhammomajra, as it was swear heat. First of all Kunal jumped into Bhakra canal, thereafter he and Kunal asked Anuj to jump as well. Both of them

knew that Anuj did not know how to swim. As a result Anuj died due to drowning. Consequently, both Ranjit @ Gula and Kunal were nominated in the present crime. Accused Gula has since been arrested.

4. It was interjected by learned Public Prosecutor for the State that motorcycle belonging to Anuj as well was thrown by the aforesaid accused in the Bhakhra canal. Accused Ranjit Singh @ Gula has been arrested. The said motorcycle was also recovered. Dead body of Anuj has also been recovered on 4.6.2022.

5. Learned counsel for the bail applicant submitted that besides enormous delay in lodging the FIR, story put forth by prosecution appears improbable as there was no apparent enmity between the bail-applicant and the deceased. Moreover, bail applicant remained admitted in Rajindra hospital, Patiala from 12.5.2022 to 22.5.2022 and on 21.5.2022 he underwent a plastic surgery.

6. I have heard learned counsel for the applicant and learned Public Prosecutor for the State. The plea of *alibi* introduced by learned counsel appears not satisfactory, at this stage. Indeed there are pointed allegations that both, bail applicant as well as his co-accused, exhorted Anuj, knowing it well that he did not know how to swim and thus caused his death. The alleged delay, if any, is also not relevant as initially on the day when Anuj went missing, his father lodged missing report and the police started investigating, though it is a separate matter that offence u/s 304 IPC was added once extra judicial confession was made by co-accused and ultimately dead body and motorcycle of the deceased were recovered. The facts and circumstances call for custodial interrogation of the applicant-accused and as such the bail application is dismissed. File be consigned to the record room.

Date of order.
07.07.2022

Sanjeev Kumar, Stenographer Gr.I

Tarsem Mangla
Sessions Judge
Patiala.
(UID No.PB0049)