

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

CRM-M-25549-2015

Date of Decision: 14.08.2015

Barham Parkash

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. P.S. Sullar, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.281 dated 29.06.2014 under Sections 302, 34 of Indian Penal Code ('IPC' for short), registered at Police Station Tauru, District Mewat.

Learned counsel for the petitioner places heavy reliance on the inquiry report (Annexure P-3) conducted by a senior officer of the rank of Additional Commissioner of Police, Faridabad wherein the allegation against the petitioner for an offence under Section 302 IPC has been found to be incorrect. He further submits that on the basis of this inquiry report (Annexure P-3), this could be at the most a case under Section 304A IPC which is a bailable offence. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Mohd. Haseen, Police Station Tauru, District Mewat, opposes the present petition contending that keeping in view the stage of the trial which is at the initial stage, petitioner is not entitled for bail pending trial, at this stage because none of the material witness has been examined so far.

Further, no supplementary challan on the basis of the inquiry report (Annexure P-3) has been presented to the learned Court so far. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties and after careful perusal of the record of the case, particularly inquiry report (Annexure P-3), this Court is of the considered opinion that petitioner is entitled for bail pending trial. It is so said because the inquiry report (Annexure P-3) has been furnished by a senior officer of the rank of Additional Commissioner of Police. He has given plausible reasons in the inquiry report (Annexure P-3) which prima facie goes to show that petitioner was not having any intention to cause the death of deceased Rajbir. Even the car of the petitioner was also found to have been damaged. Annexure P-2 is the mechanical report in this regard.

In this view of the matter, it will be a debatable issue before the learned trial Court as to which was the aggressor party. However, without commenting anything further on merits at this stage, lest it should prejudice the rights of either of the parties, present petition is allowed. Petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

14.08.2015
vishnu