

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-28432-2015
Date of decision:1.9.2015**

Suraj Bhan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Aman Pal, Advocate for the petitioner.
Mr.Ashish Yadav, Addl. A.G., Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner seeks bail pending trial in FIR No.200 dated 15.4.2013 registered under Sections 302, 328, 147 and 149 IPC (later on converted in Section 306 read with Section 34 IPC) at Police Station Assandh, District Karnal.

Learned counsel for the petitioner refers to the findings recorded by the Special Investigating Team ('SIT' for short) in para (xii) at page 34 of the paper-book, to contend that petitioner was not physically present at the time and place of occurrence. He further refers to the findings recorded by the same SIT in para (x) at page 31 of the paper-book, to contend that JCB machine was purchased by the petitioner which was financed by Kotak Mahindra. It was the petitioner who was paying the installments. When the petitioner was called by Deepak son of Satpal at his residence that his father Satpal was serious, petitioner went there, took the deceased in his car and he was taken to Mehla Hospital, Jundla for check up. Thereafter petitioner took the deceased to another Hospital of Dr. Gian

Bhushan at Karnal. Learned counsel for the petitioner submits that had the petitioner been intending to cause any harm to the deceased, he would not take the deceased to different hospitals in his own car for the medical treatment. Learned counsel for the petitioner concluded by submitting that since Smt. Roshni Devi tried to implicate the petitioner at an earlier point of time as well, wherein he was declared innocent, the complainant had a strong motive to falsely implicate the petitioner again. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Prem Singh, Police Station Assandh, submits that although the offence under Section 302 IPC has been deleted, yet the petitioner has been found responsible for commission of offence under Section 306 IPC, because he compelled the deceased to take the extreme step for committing the suicide. He further submits that the findings recorded by SIT in favour of the petitioner do not relate to the present case. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the peculiar facts and circumstances of the case noticed hereinabove, petitioner has been found entitled for bail pending trial.

So far as the findings recorded by the SIT in favour of the petitioner are concerned, it is a matter of record. A bare perusal of the findings recorded by SIT in para (x) at page 31 of the paper-book as well as in para (xii) at page 34 of the paper-book would clearly go to show that

petitioner was not present at the time and place of occurrence. The offence under Section 302 IPC has already been deleted by the investigating agency itself. In such a situation, it shall be a debatable issue before the learned trial Court whether the petitioner had any role to play in the commission of offence under Section 306 IPC. So far as the contention, raised by the learned counsel for the State that the report (Annexure P-2) submitted by SIT does not relate to the present case is concerned, it has been found to be factually incorrect and the same has to be rejected. It is so said because the said report of SIT dated 18.9.2013 was filed before this Court by way of affidavit of Deputy Superintendent of Police (Headquarters), Karnal in CRM-M-23709-2013.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the rights of either of the parties, the instant 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.

1.9.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE