

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32493-2015

Date of Decision: November 17, 2015

Mangat Ram and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. M.S. Sidhu, Advocate,
for the petitioners.

Mr. P.S. Ghuman, Addl. AG, Punjab,
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of bail to the petitioners, Mangat Ram son of Om Parkash and Rajo Bai wife of Mangat Ram, both residents of Street No. 1, Radha Swami Colony, Fazilka, who have been booked for having committed the offences punishable under Section 304 read with Section 34, IPC, in a case arising out of FIR No. 116, dated 5.11.2014, registered at Police Station, City, Fazilka.

Mr. M.S. Sidhu, learned counsel representing the

petitioners submits that even if the whole case of the prosecution is taken at its face value, then also the gravamen of Section 304, IPC, is not attracted qua the petitioners; on a petty issue, the quarrel had taken place in which petitioner No. 1, Mangat Ram, alleged to have pushed Parwati (since deceased) and except that no other overt act has been attributed to the petitioners; after ten days of the said incident, Parwati, aged about 60-year, had died; the petitioners are in custody since 24.7.2015; and that after completion of the investigation, the charge-sheet (challan) has been presented.

Learned counsel for the State after taking instructions from HC Banta Singh of Police Station, City, Fazilka, and going through the police file submits that in the postmortem report it has been mentioned that Parwati had died on account of haemorrhage in her brain, but on Court question he could not clarify as to on what date that brain-haemorrhage had occurred. However, he submits that a CT scan of the skull of Parwati (since deceased) was conducted on 27.10.2014 and then it revealed that there was haemorrhage in her brain.

I have heard learned counsel for the parties and with their able assistance gone through the material available on

record.

Applicability of Section 304, IPC, qua the petitioners would be a moot point during trial; no specific overt act except calling bad names, has been attributed to petitioner No. 2, Rajo Bai; the only role assigned to petitioner No. 1, Mangat Ram, is that on a petty issue, he (Mangat Ram) had pushed Parwati (since deceased) and as a result thereof, she had become unconscious; the petitioners are behind the bars from 24.7.2015; and that after completion of the investigation, the charge-sheet (challan) has been presented.

In view of totality of the facts and circumstances of the case, the present petition is accepted and the petitioners, Mangat Ram son of Om Parkash and Rajo Bai wife of Mangat Ram, both residents of Street No. 1, Radha Swami Colony, Fazilka, are directed to be released on bail during pendency of the trial of the present case subject to their furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Fazilka.

(NARESH KUMAR SANGHI)
JUDGE

November 17, 2015
Pkapoor