

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

**Criminal Misc.No.M-34809 of 2014 (O&M)
Date of Decision: February 10, 2015**

Ratti alias Ali Mohmad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.P.R.Yadav, Advocate,
for the petitioner.

Mr.Kapil Aggarwal, Addl.AG, Haryana.

Naresh Kumar Sanghi, J.(Oral)

Learned counsel for the State submits that a letter has been received from the Superintendent of Police, Nuh, District Mewat, to the effect that regular departmental inquiries have been initiated against ASI Abdul Majid and ASI Jagdish Chand and even ASI Abdul Majid has been placed under suspension.

Prayer in this petition filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Ratti alias Ali Mohmad, who has been booked for having committed the offences punishable under Section 302 read with Section 34, IPC, and Section 181 of the Motor Vehicles Act, 1988, in a case arising out of FIR No.301, dated 01.05.2014, registered at Police Station, Nuh, District Mewat.

Learned counsel contends that even if the whole case

of the prosecution is taken at its face value then also the essential ingredients of the offences, for which the petitioner has been booked, are not substantiated. He further submits that the petitioner is behind the bars from 2.5.2014 and after completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) has already been presented. It has also been pointed out that only on the basis of motive to the effect that the petitioner, who is the husband of the sister of deceased Noman, was not maintaining good relations with his wife, therefore, he committed the murder of Noman cannot be digested and that by itself might not be a ground to prosecute a person for the offence punishable under Section 302, IPC.

On the other hand, learned counsel for the State, on instructions from ASI Radha Raman, Police Station, Nuh, District Mewat, submits that the vehicle which was being driven by the driver at the time of alleged occurrence, was mechanically got examined from the workshop of Haryana Roadways at Nuh and it was found that there was a dent on the left portion of bumper of the said vehicle which clearly reveals that the said vehicle was involved in the present incident.

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

On a specific query by this Court, learned counsel for

the State very fairly concedes that the motorcycle which was allegedly being driven by Noman (since deceased) was not got mechanically examined. He further concedes that the photographs of the offending vehicle were not got clicked. There is no eye-witness of the occurrence. Even the statement of the sister of the deceased was not recorded, in terms of Section 161, Cr.P.C. In the considered opinion of this Court except the motive and mechanical examination of the offending vehicle, there is no other evidence connecting the petitioner with the offence of murder.

In view of the totality of the facts and circumstances of the case, the present petition is allowed. Petitioner-Ratti alias Ali Mohmad, s/o Hasim alias Hasam, r/o village Saral (Sad), P.S.Nagina, District Mewat, is ordered to be released on bail during the pendency of the trial of the present case subject to his furnishing bail bonds to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, Nuh at Mewat.

The observations made hereinabove are for the limited purpose of deciding the present petition for grant of bail to the petitioner.

February 10, 2015
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(Naresh Kumar Sanghi)
Judge