

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-4207 of 2016 (O&M)
Date of Decision: 10.02.2016

Kamalpreet Singh @ Gora

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Parminder Singh-I, Advocate for the petitioner.

Mr. D.S. Virk, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.15 dated 26.1.2015 under section 304 I.P.C registered at Police Station, Sudhar, District Ludhiana.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the statement of Arvinder Singh, an employee of the Police Department, State of Punjab. Accusations pertain to an occurrence of 25.1.2015 in which an Alto car driven by the present petitioner Kamalpreet Singh had struck with a motorcycle and as a result of which the person driving the motorcycle namely Bhawandeep Singh as also the pillion rider Krishan Kumar lost their lives. As per complainant, Bhawandeep Singh deceased was his cousin brother and on the fateful day they had proceeded on separate motorcycles to attend a marriage function at Katyal Marriage Palace. It is alleged that during the course of the marriage function a quarrel had taken place between the present petitioner and Bhawandeep singh but the same was resolved with the intervention of the elders. Further accusation is that upon having started back after taking the

meals the present petitioner had come at a very fast speed and had intentionally struck the car from behind in the motorcycle being driven by Bhawandeep Singh. It is against such accusations that the present F.I.R came to be registered and offence under section 304 I.P.C was cited.

Petitioner was arrested on 4.2.2015.

Learned counsel appearing for the petitioner would advert to the call details of Arvinder Singh from his mobile number i.e. 9501000837 to assert that as per such call details the location of complainant Arvinder Singh was tallied and the same would show that he did not even proceed to the marriage function at Katyal Marriage Palace on the night of 25.1.2015. Such call details form part of the challan document.

Complainant Arvinder Singh has been examined before the Trial Court and his deposition as PW-1 has been placed on record at Annexure P-3. Arvinder Singh in his statement has conceded to the effect that his mobile number is the same i.e. 9501000837 and he had used the same himself during the entire day i.e. on 25.1.2015. In his cross-examination upon being confronted that the call tower locations clearly suggest that he was not present at the marriage function and rather was present at different places, Arvinder Singh in response has been evasive and has only replied that he does not recollect.

The trial in the present case is still at the very initial stage inasmuch as out of 21 prosecution witnesses having been cited only 4 have been examined till date.

The question as to whether offence under section 304 I.P.C is made out against the present petitioner, would be a moot question to be considered during the course of trial.

Without making any observations on merits and keeping in view the length of incarceration already suffered by the petitioner, he is held entitled to the benefit of bail. Accordingly, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Ludhiana.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

10.02.2016
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