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

CRM-M-35295 of 2017 (O&M)

Date of decision: October 07, 2017

Parminder Singh @ Pamma

.....Applicant-Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. J.S. Dadwal, Advocate for the applicant-petitioner.

Mr. Dhruv Dayal, Sr. DAG Punjab.

A.B. CHAUDHARI, J (Oral)

CRM No.32187 of 2017

Heard.

Application is allowed subject to all just exceptions. Annexure

P-5 is taken on record.

CRM-M-35295 of 2017

Heard learned counsel for the rival parties.

Petitioner seeks grant of regular bail in FIR No.23 dated 13.02.2016, under Sections 304, 328, 34 of Indian Penal Code, 1860 (for short 'IPC') (Section 302 IPC added later on), registered at Police Station Salem Tabri, Ludhiana.

The petitioner was arrested on 14.02.2016 and is in jail since then.

This Court did not grant the relief of bail in the earlier petition for bail since this Court wanted to have evidence of material witnesses recorded. Now the evidence of material witnesses including the doctor has

been recorded. I have perused the evidence of PW1-Baljit Kaur star witness of the prosecution. Upon perusal of the evidence, it seems that there is no evidence to show that the witness had seen administration of any poison as is the prosecution case. Prosecution solely relied on the last seen theory, but then the last seen theory must be accompanied by cause of death, which should be definite. In the present case, the doctor did not give any opinion as to the cause of death and referred the *viscera* for scientific examination. Now there is report of the examination of *viscera*, which shows that no poison was detected. In other words, the petitioner would be entitled to grant of regular bail.

Learned State counsel opposed the petition for regular bail on the ground that the evidence has been completed and now the trial is fixed for statement of accused under Section 313 of Code of Criminal Procedure, 1973.

Even if that so, in the absence of *prima-facie* evidence after holding the trial, the petitioner would be entitled to grant of bail particularly when there is no other criminal case against him.

In that view of the matter, this petition is allowed. Petitioner shall be released on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well.

(A.B. CHAUDHARI)
JUDGE

October 07, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No