

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-40088 of 2017
Date of Decision: 01.11.2017

Col. Manvir Singh Bains

....Petitioner

VERSUS

State of U.T. Chandigarh

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.331 dated 02.09.2017 registered for the offence punishable under Section 302 read with Section 34 of Indian Penal Code (for short, "IPC") at Police Station Sector 34, Chandigarh. (Offences punishable under Sections 302 IPC was deleted and 304-II IPC was added later on).

Heard.

Notice of motion.

On asking of the court, Mr. J.S. Toor, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

Learned counsel for the petitioner submits that it was a case of road rage and as per allegations in the FIR, the petitioner had caught driver of Scoda Car from his neck and given him fist blows. Driver of Scoda Car bearing registration no. CH-01-BA-6792 was later on taken to hospital

where he was declared as brought dead. IN postmortem report of the deceased, no injury was found on his person and about heart of the deceased it was found as follows:-

“Heart enlarged with significant fat deposition present over apicardium. Atheromatous plaques present in lumen of aorta. All Coronary Arteries are hard and cord like. Lumen of left anterior descending coronary artery is narrowed upto 90 percent by atheromatous plaque 2 cm from its origin. Old fibrous changes present in left myocaridum. Heart preserved for histopathology examination.”

Later on after receipt of report, the Medical Board opined that altercation, heated arguments and trembling can possibly precipitate the death of person with pre-existing condition as mentioned in final report of PMR of the deceased.

Learned counsel for the petitioner submits that the petitioner had no enmity with the deceased. Some altercation had taken place and he was not aware about heart condition of the deceased, as such, it will be a debatable issue before the trial Court whether provisions of Section 304-II IPC are applicable to facts of present case.

Learned APP for U.T. Chandigarh submits that petitioner is a serving Colonel in the Army and keeping in view facts and circumstances of the case he has instructions to submit that State of U.T. Chandigarh does not oppose the bail application of the petitioner.

Keeping in view facts and circumstances of the case; submissions of learned counsel for the petitioner and learned APP, U.T. Chandigarh; medical record particularly postmortem report and opinion of

the Medical Board, the present petition is allowed. Petitioner-Col. Manvir Singh Bains is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

November 01, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No