

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 209

CRM-M-42682-2016

Decided on : 08.02.2017

Harpreet Singh @ Peter

..... Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vikram Chaudhri, Senior Advocate, with
Mr. G. S. Sidhu, Advocate, for the petitioner(s).

Mr. Neeraj Yadav, AAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

Through the present petition filed under Section 439 Cr. P. C., the petitioner seeks the concession of regular bail in FIR No. 178, dated 26.09.2013, registered under Section 302 IPC, at Police Station Morinda, District Ropar.

On 23.01.2017, after partly hearing the matter, I had directed the State to file a status report which has been filed, in Court today. The same is ordered to be taken on record. Copy of the same has been handed over to counsel opposite.

A perusal of the afore-referred status report shows that on 12.11.2012, the complainant had got his statement recorded that on 11.11.2012 his son-Jasdeep Singh, at about 1-1:30 PM, after informing the complainant that he was going to Chandigarh to watch a movie left home but had not returned ever since. The complainant made inquiries from his friends who gave him no clues with regard to his son's whereabouts. He

then received a telephonic call informing him that the dead body of his son was lying on the side of the bridge above both canals near village Kajauli, upon which he alongwith Sukhdeep Singh and Mani Sharma reached the spot and identified the dead body of his son. He found that there was no injury on the dead body. He did not suspect any foul-play leading to the death of his son. According to him, his son's death was natural and sudden. Nonetheless the postmortem on the dead body of his son was conducted and viscera was sent for chemical examination.

After about two months, the complainant moved a representation to the SSP, Rupnagar, through which he raised a suspicion that his son may have been murdered and requested for getting the matter investigated. On his request, the Superintendent of Police (Detective), Rupnagar, conducted an inquiry and found that on the fateful day, on receiving a call from the petitioner, the deceased went to see him. It came to light that the petitioner left the deceased at the Kajauli bridge where the dead body was found on the next day. The cause of death, as per the postmortem report, was asphyxia due to drowning which was ante-mortem in nature. After thorough investigation, the Superintendent of Police (Detective), Rupnagar, gave a detailed report through which he recommended the registration of a case against the petitioner under Section 304-A of the IPC read with Section 201 IPC.

The recommendation of the Superintendent of Police (Detective) Rupnagar, referred to above, was then sent for legal opinion and as per the legal opinion, the SSP, Rupnagar directed the Superintendent of Police (Detective) Rupnagar to give further comments as to why the case should not be registered Section 302 IPC. As directed by the SSP,

Rupnagar, the Superintendent of Police (Detective), Rupnagar, again thoroughly probed the matter but came to the same conclusion that the death of the deceased had occurred due to the negligence of the petitioner and, therefore, he reiterated his earlier recommendation that a case against the petitioner be registered only under Section 304-A IPC and not under Section 302 IPC. This recommendation of his was accepted by the SSP, Rupnagar and accordingly, a case under Section 304-A IPC was registered against the petitioner.

In the investigation that took place after the registration of the case, the petitioner is said to have dutifully joined investigation. After the investigation was complete, a report under Section 173 Cr. P. C. was prepared and filed in court as per which also a case under Section 304-A IPC was made out against the petitioner and not under Section 302 IPC. The trial court took cognizance and also framed charges under Section 304-A IPC. Thereafter, all the prosecution witnesses were examined and the evidence of the prosecution was closed.

At the fag end of the trial, the trial court while referring to the statement of the father of the deceased to the effect that his son had been murdered; the report of the chemical examiner and the postmortem report, formed an opinion that the accused should be tried under Section 302 IPC and not under Section 304-A IPC. Accordingly, the petitioner, who was present in Court, was ordered to be taken in custody and he remains in custody since then.

Seeking regular bail for the petitioner, learned senior counsel appearing on his behalf submits that the statement of the father of the deceased to the effect that his son had been murdered, the report of the

chemical examiner and the postmortem report on the basis of which the trial court ordered that the petitioner should be tried under Section 302 IPC and not 304-A IPC had already been considered by the investigating agency twice over and that too by a senior officer of the rank of the Superintendent of Police and after consideration of the same had formed a definite opinion that no case was made out against the petitioner under Section 302 IPC and that he should be prosecuted only under Section 304-A IPC. He further submits that the petitioner had joined investigation; had fully cooperated with the same; that during the trial he had never misused the concession of bail; that he is a college-going student aged about 21/22 years and that he had no other criminal case pending against him.

Learned State counsel opposes the bail application on the ground that the petitioner is now ordered to be tried under Section 302 IPC.

The son of the complainant expired on 11.11.2012 and his dead body was found on 12.11.2012 on which date the complainant had specifically stated before the police that he does not suspect any foul-play in the death of his son. About two months later, the complainant requested the SSP, Rupnagar to investigate into the death of his son as he now suspected that his son may have been murdered. On his request, a senior officer of the rank of Superintendent of Police investigated the matter twice over and each time the only conclusion that he could draw was that no case under Section 302 IPC was made out against the petitioner and that he should be prosecuted only under Section 304-A IPC. The trial court has directed the petitioner be tried under Section 302 IPC and not under Section 304-A IPC primarily on the basis of the statement of the father of the deceased; the postmortem report; and the report of the chemical examiner. After

considering these very materials, the Superintendent of Police (Detective), Rupnagar had formed an opinion twice over that the petitioner should be prosecuted under Section 304-A IPC and not under Section 302 IPC.

Whether the petitioner has committed an offence under Section 302 IPC is debatable and would be deciphered only through the trial which under this section is yet to commence and, therefore, is likely to take a long time to conclude.

It is not in dispute that the petitioner is a college-going student aged about 21/22 years; that he has no other criminal case pending against him and that during the entire trial which the petitioner faced under Section 304-A IPC, he was on bail, which concession he never misused.

In the peculiar facts of the case, as noticed above, I am of the considered opinion that during the pendency of the trial under Section 302 IPC, the petitioner should be admitted to regular bail to the satisfaction of the trial court.

Ordered accordingly.

The observations made above have been made only for the limited purpose of deciding the present petition for regular bail and the same would not be construed to be an expression of opinion on the merits of the case.

08.02.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No