

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-20571 of 2018
Date of Decision: 30.05.2018

Ashish Sharma

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

Mr. Amrik Narwal, DAG, Haryana.

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.111 dated 21.09.2017 registered for the offence punishable under Section 304 read with Section 34 of Indian Penal Code (for short, "IPC") at Police Station Sector 20, Panchkula.

Heard.

Deceased-Dayal Kishan was married with Deepa Tiwari daughter of Devi Dutt. This marriage was dissolved by way of decree of divorce. Present FIR was registered on the complaint of Pushpa Devi, mother of the deceased, who has stated in her statement to police that on 20.09.2017 at about 05.00 p.m. she received a call of her daughter-in-law on her mobile asking her to send Dayal Kishan to the park of Sector 19, Panchkula. She sent her son to park and after sometime she came to know that her son was being thrashed by father of Deepa Tiwari, Deepa and her boss Ashish. She went to the park and found that Devi Dutt, Deepa and

Ashish were beating Dayal Krishan with helmet, *chappal* (slippers), kicks and fist blows. She brought her son to house and gave him milk mixed with turmeric. In the morning her son was not feeling comfortable and died. In postmortem report, cause of death has been given as injuries on the person of deceased, which have been described as follows:-

- (i) Abrasion of size 12 cm in length extending from anterior aspect to middle of neck to upper part of left chest wall just above left side breast.
- (ii) Small multiple abrasion measuring 2 cm in length present over right wrist joint.
- (iii) Abrasion of size 5 cm in length present over anterior aspect of left leg.

Deceased was also having dislocation of right shoulder joint.

Learned counsel for the petitioner submits that only eye-witness in this case is Pushpa Devi, who had appeared as PW-4, and has not stated about presence of petitioner at the spot at the time of occurrence. Even otherwise, the petitioner is not related to Deepa Tiwari and has been falsely implicated as he was helping in her matrimonial dispute.

The petitioner was arrested in this case on 21.09.2017. As per allegation in the FIR, he gave kicks and fist blows to deceased. Pushpa Devi while appearing as PW-4 has categorically stated that she had not seen the petitioner at the spot and had not identified him.

In view of above facts but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Ashish Sharma 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.

May 30, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No