

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

CRM-M-28742-2018
Date of decision: 01.08.2018

Harjit Singh @ Happy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Deepak Bhardwaj, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Satish Garg, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This is petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 97 dated 07.06.2017, registered under Sections 302/34 of the IPC at Police Station Sadar Samana, District Patiala.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the complainant has alleged that the petitioner along with his wife Simar Kaur and son Davinder Singh had fight with the father of the complainant, namely Joginder Singh. It is further alleged in the FIR that the petitioner has given a brick blow on the back side of the head of the complainant's father Joginder Singh and he lost his consciousness and fell down on the floor. Thereafter, the complainant and his maternal uncle Sukhwinder Singh took him to hospital where the doctor declared him brought dead. Learned counsel for the petitioner further submits that the

police, on inquiry, has declared Simar Kaur and Davinder Singh as innocent and as per post-mortem report (Annexure P-2), no visible injury mark on all over the body was seen and the viscera was sent for histopathological examination.

Learned counsel for the petitioner relies upon the report of the medical board which reads as under:

“The final opinion in case of Joginder Singh s/o Pyara Singh 70/M r/o Miyal Khurd PMR/DB/12/SMN/17 after going through the post mortem report; chemical examiner report No. 128 dated 12/1/18 suggestive of no opinion and positive Histopathology report No. 60/3/2017 dated 17/7/17 is **Acute Myocardial Infarction with Antecedent coronary Artery Disease and left ventricular hypertrophy indicating old infarcts (Previous myocardial infarction)** which is sufficient to cause death in the ordinary cause of nature nadi s ante-mortem in nature.

Sd/- Deepika 23/1/18 MO CH Samana

Sd/- Dr. Upnadee Singh MO CH Samana

Sd/- Dr. Arvind Verma MO CH Samana”

Learned counsel for the petitioner further submits that as per the post-mortem report and the opinion given by the medical board, the cause of death was not account of causing injuries to deceased and he had died on account of suffering heart attack.

Learned counsel for the petitioner further argues that the petitioner is in judicial custody since 24.06.2017 and the case is still at the stage of committing the same to the Court of Sessions and it will take a long time in conclusion of the trial.

Learned State counsel, on instructions from ASI Gurvachan Singh, assisted by learned counsel for the complainant, has opposed the grant of regular bail to the petitioner. However, learned State counsel has not disputed the fact regarding opinion given by the medical board based on

the post-mortem report as well as the histopathological report and that the case is fixed for 01.08.2018 for committing the same to the Court of Sessions.

Learned counsel for the complainant submitted that the complainant, in his deposition before the police, has clearly stated that the petitioner has given brick bat blow on the head of the father of the complainant.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that the petitioner is in judicial custody since 24.06.2017; the case is still at the stage of committing the same to the Court of Sessions and also considering the aforesaid report of the medical board, I deem appropriate to grant regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that in case the petitioner is found misusing the concession of bail or extending any threat to the complainant/prosecution witnesses, it will be open for the complainant/prosecution to move an application for cancellation of bail.

August 01, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No