

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37921-2018 (O&M)
Date of Decision:-03.10.2018.

Desa Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. N.S. Dandiwal, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioner has sought for anticipatory bail under the provisions of Section 438 Cr.P.C. in FIR No.107 dated 10.05.2018 under Sections 308/323/341/302/34 IPC (Section 302 IPC added later on), registered at Police Station City South Moga.

2.) Learned counsel for the petitioner vehemently contended that having regard to the allegations stated in the FIR, respondent-State have not made out Section 302 IPC. Thus, petitioner is entitled to anticipatory bail.

3.) On the other hand, learned State counsel, on instructions from ASI Sukhdev Singh, submitted that even though initially Section 302 IPC was not included in the FIR, whereas on the same day i.e. on 10.05.2018 with reference to the postmortem report, proceeded to incorporate Section

302 IPC. It was further contended that co-accused have been arrested and

challan has been presented. Insofar as petitioner is concerned, proclaimed offender proceedings are in vogue. Therefore, petitioner is not entitled to anticipatory bail.

4.) Heard the learned counsel for the parties.

5.) Perusal of the file, it is evident that Section 302 IPC has been added with reference to postmortem report. Further Section 34 IPC is also one of the offence. Therefore, even petitioner has not caused injury which amounts to grievous hurt at the same time, Section 34 IPC cannot be ignored. Moreover, petitioner is evading arrest for which proclaimed offender proceedings is being drawn. Thus, petitioner has not made out a case for anticipatory bail.

6.) Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

October 03, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.