

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

CRM-M-38207-2018
Date of decision: 12.10.2018

Surinder Kumar Chaudhary

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. L. M. Gulati, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This 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. 125 dated 18.06.2017, registered under Sections 307, 186, 353, 148, 149 of the IPC and Sections 25, 27 of the Arms Act, 1959 (Section 302 IPC added later on) at Police Station Cantonment, Amritsar City, District Amritsar, wherein charge has been framed under Section 304 IPC.

Learned counsel for the petitioner submits the petitioner is aged about 65 years and he is a heart patient. It is further submitted that petitioner has undergone about six months of custody and before addition of Section 302 IPC, the petitioner was granted anticipatory bail and he has not misused the same and after dismissal of the anticipatory bail, he has surrendered before the trial Court.

Learned counsel for the petitioner further submits that the petitioner is not maintaining good health in custody and he needs continuous medical attention and has placed on record medical certificate issued by the Fortis Hospital, Amritsar where the petitioner was undergoing treatment when he was on anticipatory bail.

Learned counsel for the petitioner has further submitted that as per the allegations in the FIR, the petitioner is attributed a *lalkara*, in response to which, his son co-accused Pawan Kumar had given a brick bat blow on the head of the deceased Constable Rajesh Kumar who died after a prolonged illness.

Learned counsel for the petitioner has further submitted that during the pendency of anticipatory bail application, the petitioner has paid a sum of Rs. 1 Lakh to the widow of deceased Constable Rajesh Kumar and the petitioner is still ready to pay another sum of Rs. 5 Lakh, by way of a demand draft, to the widow of deceased Constable Rajesh Kumar.

Learned State counsel, on instructions from ASI Balbir Singh, has not disputed the factual position that the petitioner is in judicial custody since 09.04.2018 and submitted that since one more accused Raj Kumar has been arrested, a supplementary challan will be presented against him. It is further submitted that till date, no prosecution witness has been examined and main accused Pawan Kumar is in judicial custody.

Learned counsel for the complainant, who was the fellow police official with the deceased Constable Rajesh Kumar, has however opposed the grant of regular bail to the petitioner on the ground that he may influence the trial.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that the petitioner is aged about 65 years, he has undergone heart surgery and is a chronic patient of diabetes; he is in constant medical supervision while he was on anticipatory bail before addition of Section 302 IPC; he has paid a sum of Rs. 1 Lakh to the widow of deceased Constable Rajesh Kumar; has not misused the concession of anticipatory bail and after dismissal of the same, he has surrendered before the trial Court and also considering the fact that conclusion of the trial will take some time as the evidence in the main case is yet to start, 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, this will be subject to deposit of ₹ 5 Lakh with the trial Court, by way of a demand draft, to be paid to the widow of deceased Constable Rajesh Kumar.

The aforesaid payment will not cause any prejudice to the rights of the petitioner to defend himself during the course of trial.

October 12, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No