

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Revision No. 152 of 2018 (O&M)
Date of Decision: August 27, 2019**

Rajat Kapoor

.....PETITIONER

VERSUS

State of U.T. Chandigarh

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Deepanshu Mehta, Advocate
for the petitioner.

Mr. J.S.Toor, APP, U.T., Chandigarh.

Mr. Harish Sharma, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

Vide order dated 27.12.2017, application of petitioner seeking bail in case bearing FIR No.446 dated 23.07.2013 registered for offences punishable under Sections 304(2), 304-A, 279, 337, 338, 201, 212 Indian Penal Code (for short IPC) at Police Station Central, Chandigarh was allowed with the rider that in the event of charge for offence under Section 304 Part-II IPC is framed against the petitioner, his bail application shall deemed to be dismissed and he shall be taken into custody without any further notice to him.

Learned counsel for the petitioner submits that learned Chief Judicial Magistrate has committed the case to the Court of Session, where it is fixed for framing of charge and in the event of charge being framed for

offence under Section 304 Part-II IPC, the petitioner will be taken into custody without being afforded any opportunity of hearing.

As per the allegations in this case, an accident took place on the intervening night of 22/23.07.2013 resulting in death of three persons. The police presented the challan under Section 304-A IPC.

Vide order dated 22.12.2017, learned Chief Judicial Magistrate observed that the offences punishable under Sections 304 Part II, 279, 337, 338, 201 IPC is made out against the petitioner and committed the case to the Court of Session. Thereafter, the petitioner moved an application before the Additional Sessions Judge, Chandigarh seeking bail under Section 304 Part II and other sections as mentioned in the final report.

Petitioner had filed application seeking regular bail for offence punishable under Section 304 Part II IPC. Learned Additional Sessions Judge instead of looking into fact of case and finally deciding the application ordered that in case charge under Section 304 Part II IPC is framed, he will be taken in custody. The order passed by learned Additional Sessions Judge, Chandigarh will take the petitioner with surprise in the event of charge under Section 304 Part II is framed.

Learned Additional Sessions Judge, Chandigarh is directed to decide bail application No.1685 of 2017 with regard to grant or non- grant of bail under Section 304 Part II IPC without putting such a rider as mentioned in the order dated 27.12.2017. The petitioner is on bail and in the event of application being declined or charge under Section 304 Part II IPC is framed against him before decision of his bail application, he will be allowed 15 days time to avail legal remedies and shall not be taken into

custody during that period. Till application of petitioner is decided on merit, he will remain on bail on bail bonds and surety bonds already furnished.

(SURINDER GUPTA)
JUDGE

August 27, 2019
Jyoti-II

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>