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

CRM-M-28129 of 2019

Date of decision: December 19, 2019

Mukhtiar Singh alias Mukhtyar Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gaurav Aggarwal, Advocate for the petitioner.

Mr. Pawan K. Garg, AAG Haryana.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.0037 dated 30.01.2019, under Section 304 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Rania, District Sirsa.

Affidavit of Sh. T.L. Satyaprakash, Secretary to Government of Haryana, Home Department, filed by the learned State counsel, today in Court, is taken on record. A copy thereof has been supplied to the counsel opposite.

Registry to do the needful.

As per prosecution case, allegation in this case, against the petitioner is that he had pushed the deceased and due to that she fell

down and died on the spot.

Contends that the petitioner is in custody since 30.01.2019 and out of total 17 prosecution witnesses, 12 have already been examined, but none of them is supporting the prosecution case. Also contends that complainant-Raj Kaur was even declared hostile and even from her cross-examination, nothing incriminating is coming forward. Further contends that as per report of the chemical examiner also, charge against the petitioner is not proved as the cause of death is stated to be asphyxia due to hanging; thus, the entire prosecution case is demolished.

Learned State counsel, on instructions from police official present in Court to assist him, is not able to controvert the above submissions made by the learned counsel for the petitioner and acknowledged the report of the chemical examiner that the cause of death is asphyxia due to hanging.

Heard both sides and perused the paper-book.

Since none of the prosecution witnesses, who have been examined, are supporting the case of the prosecution, the petitioner is in custody since 19.01.2019; and even the complainant was also declared hostile; therefore, his further incarceration would not serve any purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial

Court/Duty Magistrate concerned.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

The above observations may not be construed as an expression of opinion on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

December 19, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No