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

CRM-M-28508 of 2019

Date of decision: July 15, 2019

Vijay Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sanjeev Roy, Advocate for the petitioner.

Mr. V.G. Jauhar, Senior DAG Punjab.

MAHABIR SINGH SINDHU, J (Oral)

Present third petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail to the petitioner, in FIR No.26 dated 07.04.2018, under Sections 279, 337, 338, 304-A, 427 of Indian Penal Code, 1860 (for short 'IPC') (Section 304 IPC added later on), registered at Police Station Mahilpur, District Hoshiarpur.

As per prosecution case, petitioner while rashly and negligently driving one Scorpio bearing registration No.PB07-M-3601 hit the motorcycle driven by Dharamjit Singh, on account of which he fell down on the road and Navdeep Jassal got entangled beneath the Scorpio.

Contentends that petitioner is in custody since 31.05.2018 and after investigation, report under Section 173 of Cr. P.C. was submitted and even the charges have also been framed. Also contends that as per the allegation of the prosecution itself, it is the case of Motor Vehicle Accident, but the police has given a twist on the basis of supplementary

statement of complainant. Also contends that petitioner was initially granted bail pending trial, under Sections 304-A IPC. Further contends that out of total 24 prosecution witnesses, 3 have been examined.

The above factual position is duly acknowledged by learned State counsel, on instructions from Assistant Sub Inspector Mahinder Pal.

Heard both sides and perused the paper-book.

The moot point whether the case is under Section 304-A IPC or 304 IPC would be decided by learned trial Court after conclusion of trial. Since investigation is already over and out of 24 prosecution witnesses, only 3 have been examined, thus, the trial is likely to take sufficient long time; and as such, there is no justification for further incarceration of the petitioner.

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

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

(MAHABIR SINGH SINDHU)
JUDGE

July 15, 2019
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Whether speaking/ reasoned: **Yes**

Whether Reportable: **No**