

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

209

**CRM-M No.5833 of 2019
Date of decision:13.1.2020**

TILAK RAJ

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Sawan Chaudhary, Advocate
for the petitioner.

Mr.Anmol Malik, AAG, Haryana.

Mr.Abhimanyu Batra, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

In compliance of order dated 4.10.2019, an affidavit of Ashwin Shenvi, Senior Superintendent of Police, Jind has been filed, wherein, it has been pleaded that the bailable warrants were duly executed in respect of complainant and the complainant also appeared before the Court on 3.6.2019. However, due to paucity of time, her statement could not be recorded by the trial Court and the witness was again summoned for 5.11.2019 and on that date, she was examined by the trial Court.

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case bearing FIR No. 360 dated 26.6.2018 registered under Sections 304/ 34/ 341 IPC at Police Station Safidon District Jind.

Initially, FIR under Sections 147/ 149/ 302/ 341 IPC was registered. Later on offences under Sections 147/ 149/ 302 IPC were deleted and offences under Sections 304/ 34 IPC were added.

As per the allegations in the FIR, on 25.6.2018, the complainant, her mother-in-law Tarawati and sister-in-law Sushma were present in the house. Husband and brother-in-laws of the complainant had gone out of station. At about 9:00 pm, when her mother-in-law was sitting in the courtyard, they heard some commotion and as a result of that they went outside and saw that petitioner was hurling abuses to her mother-in-law Tarawati. On being asked, the petitioner told Tarawati that he is abusing her only. When mother-in-law of the complainant resisted the petitioner then his father Subhash, brother Anil, mother Darshan, sister Kusum and wife of Rinku son of Subhash came outside and they all started beating Tarawati. When the complainant tried to save her, all the aforesaid persons pushed her and as a result of that mother-in-law of the complainant fell down. They brought her in the house.

Since the condition of mother-in-law of the complainant was grave, therefore, they took her to the hospital. On the way, the elder brother of the petitioner also came. Petitioner and his family members tried to stop the complainant party from taking Tarawati to the hospital.

As per the postmortem report, no injury was found on the person of the deceased. Upper 4th, 5th and 6th ribs of left side of chest were found fractured corresponding to midclavicular line but not piercing any internal organs. As per Histopathology report, the doctor has given opinion that there are areas of fibrosis in the region of left ventricular wall and interventricular septum. Also right coronary artery shows moderate atherosclerosis and left anterior descending artery shows moderate atherosclerosis with calcification in the wall suggestive of coronary artery disease.

Evidently, the cause of death was cardiac arrest due to CAD IE coronary artery.

On the basis of aforesaid opinion, the offence under Section 302 IPC was deleted and in its place Section 304 IPC was added.

Learned State counsel, on instructions from ASI Kamal Singh, states that out of total nineteen prosecution witnesses, five have been examined. Out of six accused,

Darshan wife of Subhash, Kusum daughter of Subhash and Seema wife of Rinku were declared innocent and now an application under Section 319 Cr.P.C. has been filed by the complainant for summoning the aforesaid womenfolk. Subhash and Anil have already been granted regular bail.

Prima facie consideration of the FIR would show that all the accused persons started giving beatings to Tarawati and gave push to her. No specific injury has been attributed to any one.

It would be debatable as to the complicity of the accused in terms of offence under Section 304 IPC. Knowledge and intention would be subject to nature of evidence to be led by the prosecution. At this stage, the petitioner has already undergone more than 14 months of incarceration, having been arrested on 27.10.2018. The application under Section 319 Cr.P.C. is still pending. Trial of the case may take some time in its logical conclusion.

At this stage, without meaning anything on the merits of the case, it would be just and appropriate to grant regular bail to the petitioner.

In view of above, this petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing

adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 13, 2020

anita

Whether reasoned/speaking

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No