

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

207

CRM-M No.9055 of 2020

Date of Decision: May 29th, 2020

Rajesh Kumar @ Tony

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Suvir Sheokand, Additional Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.146 dated 28.10.2019 registered under Sections 304, 323, 34 IPC at Police Station Dinanagar, District Gurdaspur.

It is the contention of learned counsel for the petitioner that going by the FIR, it is apparent that the petitioner along with other co-accused were in a drunken state and were fighting with each other and were using abusive language. The complainant along with his father and brother came out of the house and stopped them, whereafter a fight broke out between them. Petitioner is alleged to have firstly bitten the complainant on the left biceps and thereafter thrown a stone at the father of the complainant namely Bodh Raj, which hit him on his nose. He contends that it was night time i.e. 1:00 AM and, therefore, it cannot be said that there was any intention on the part of the petitioner which caused the death of the deceased. Assertion has also been made that the petitioner was arrested on 29.10.2019 and is in custody since then. Charges have been framed on 02.02.2020 and there are 16 witnesses, wherein none of the witnesses has been examined till date. The next date of hearing has been fixed by the trial Court in July 2020 because of the pandemic as the Courts

below are not taking up ordinary matters and only urgent cases are being taken up for hearing. He asserts that the trial is not likely to conclude soon. Prayer has thus been made for the grant of benefit of regular bail.

On the other hand, learned counsel for the State submits that the petitioner had hit a stone, which hit the nose of deceased-Bodh Raj. He died while on the way to the hospital. A person having lost his life, the concession of bail as prayed for, be not granted to the petitioner. As far as the other factual aspects are concerned, the same could not be disputed, especially with regard to the pendency of the trial and the next date of hearing having been fixed in the month of July.

I have considered the submissions made by the counsel for the parties and keeping in view the facts and circumstances of the present case with the prevailing pandemic, where the trial is not likely to conclude in near future as out of the 16 witnesses, not one has been examined till date nor are the Courts below taking up cases except for those of urgent nature, the present petition is, therefore, allowed.

Petitioner is directed to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Gurdaspur.

Any observations made hereinabove are for the purpose of disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

May 29th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No