

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

(Heard through VC)

CRM-M-14004 of 2020 (O&M)
Date of Decision: July 10, 2020

Tahir @ Sajji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Baljit Mann, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG Haryana.

Ms. Rozy, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.286 dated 13.11.2019, registered under Sections 302, 148, 149, 188, 379 of Indian Penal Code (Sections 302, 148, 149 Indian Penal Code has been deleted and challan has been presented under Sections 304, 379, 188 and 201 of Indian Penal Code) at Police Station Pinangwa.

Learned counsel for the petitioner contends that the petitioner herein was taken into custody in the aforesaid FIR on 15.01.2020. It is argued that on the basis of complaint filed, Section 302 of Indian Penal Code had been invoked in the FIR, however, after investigation, challan has

been presented under Section 304 of Indian Penal Code. It is submitted that a reading of the FIR would itself show that there was no intention of the petitioner herein to have committed the alleged crime. In fact, an altercation took place and the deceased came under the tractor thereafter. The petitioner had no intention to run the tractor over the deceased. It is also contended that investigation is complete, as the challan has already been presented. It is also pointed out that on the last date of hearing, the matter was adjourned for today, in order to await the charges to be framed by the trial court on 07.07.2020. However, charges could not be framed in the matter on the said date due to the reason that two Judicial Officers at the Sessions Division Mewat at Nuh have been found Covid-19 positive, besides the 10 other officials of the Sessions Division and as such, working of the said Sessions Division has been limited to the urgent matter only. It is also submitted that the matter stands adjourned to September, 2020 by the trial court for the purpose of framing the charges. It is also contended that as the investigation is complete and the challan has already been presented, therefore, the petitioner is entitled to be enlarged on bail.

On the other hand, counsel appearing on behalf of the complainant opposes the grant of regular bail to the petitioner, while submitting that statement of the wife has not been recorded, even though she is an eye witness.

On this, learned counsel for the petitioner submits that since the deceased belong to Muslim religion, as such, the wife is undergoing *iddat* period and that is the reason, that her statement can only be recorded thereafter.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, however, does not dispute the investigation is complete and the challan has been presented. She also does not dispute the fact that charges could not be framed in the matter on 07.07.2020 by the trial court due to the reason, as stated by learned counsel for the petitioner or the matter now stands adjourned for September, 2020.

I have heard learned counsel for the parties.

In view of the facts that the petitioner herein has been in custody since 15.01.2020, that investigation is complete, as the challan has already been presented and that it will take some time to frame the charges in the matter by the trial court due to number of positive cases of Covid-19 having been found in the Sessions Division Mewat at Nuh, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, anything observed or said by this court is only for the purpose of deciding the instant petition for grant of regular bail and the same shall have no effect on the merits of the case.

July 10, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No