

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

CRM-M-16777-2020 (O&M)

Date of decision : 14.07.2020

Sukhdeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S.S. Nara, Advocate,
for the petitioner.

Mr. A.A. Pathak, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J. (Oral)

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

This is the first petition preferred by the petitioner under Section 439 Cr.P.C. seeking bail in FIR No.175 dated 01.12.2019, registered under Sections 302, 336, 506 and 148 read with Section 149 of the Indian Penal Code (now second challan presented under Section 304A IPC); Sections 25, 27 and 30 of the Arms Act, 1959; and Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at P.S. Kot Ise Khan, District Moga.

Contents that in the inquiry conducted by Deputy Superintendent of Police, only the present petitioner was identified as a suspect and all the co-accused were exonerated. Further, the offence under Section 302 IPC was also found to be not made out and thus, the challan was altered to Section 304-A IPC. The petitioner is behind the bars since 03.12.2019.

On the other hand, learned State counsel submits that in case the concession of bail is granted, there is great apprehension of the petitioner misusing the same and intimidating the witnesses. The charges are yet to be framed.

Heard.

It is a peculiar case wherein, initially the challan was prepared by SHO, Police Station Kot Ise Khan on 09.12.2019, under Section 302 IPC. Thereafter, another challan for offence under Section 304-A IPC dated 31.01.2020 was filed after the inquiry was conducted by Deputy Superintendent of Police, Jalalabad.

There is no delay in lodging the FIR and there is stark difference in the contents of the initial statement of the complainant and the inquiry conducted. The very basis of inquiry in the face of direct allegations is bereft of any reasoning and logic. *Prima facie* it appears that the police has not carried out the investigation in an impartial manner and the accused has been shielded in the matter.

Keeping in view the above and gravity of the offence alleged, this Court does not find any ground to accept the prayer.

Dismissed.

However, considering the fact that the initial challan was prepared under Section 302 IPC, which has been subsequently changed to Section 304-A IPC, the Inspector General of Police concerned is directed to conduct the inquiry after joining the complainant and explain as to how in the face of the initial version, the case under Section 302 IPC is not made out and further furnish the report with the Registry of this Court within a period of three months from the date of receipt of a certified copy of this

judgment. During the period of inquiry, further proceedings before learned trial Court shall remain stayed.

Anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

14.07.2020
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No