

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

208

**CRM-M-23203-2020
Decided on : 21.08.2020**

Labh Chand & others

... Petitioners

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.Y.K.Aneja, Advocate, for the petitioners.

Mr.B.S.Sewak, Addl.AG, Punjab.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Petitioners, in a petition filed under Section 439 Cr.P.C., seek grant of regular bail in FIR No.70 dated 05.06.2020 under Sections 326, 324, 323, 148, 149 & 302 IPC registered at Police Station Arniwala Tehsil & District Fazilka.

The FIR was lodged by Darshan Ram, deceased regarding the incident which took place on 26.05.2020. In the FIR, he narrated that there was partition of the land between the brothers, Hari Chand, petitioner No.2, Labh Chand, petitioner No.1, Puran Chand and Darbara Ram. Thereafter, after one year, a fresh partition had taken place regarding the land which had to be given with more length and its area was reduced. The third partition took place after another year for the land which was measuring 1 $\frac{3}{4}$ acres in which the complainant had share of 2 $\frac{1}{2}$ kanals. The dispute had arisen of cultivating the land as mud had been put on the other side. Labh Chand was stated to have given a blow on the right hand of the deceased and another blow which had fallen on the ring finger due to which he had fallen down. Darbara Ram had given a blow of daang on his chest. Other persons, namely, Lovepreet Singh son of Darbara Ram and Tek Chand son of Labh Ram had also given fist blows on the complainant's son, Munsu Ram. On his coming forward, Puran Chand and his son, Pardeep Kumar and Hari Ram inflicted injuries on his person.

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The deceased had then been admitted to the Civil Hospital, Fazilka and FIR was lodged on 05.06.2020 at 4.05 PM. Thereafter, information was received at 6.41 PM that the complainant had expired. Resultantly, offence under Section 302 was added.

The regular bail application had also been dismissed on 18.07.2020 while repelling the argument that Darshan Ram had died due to heart attack on the ground that there was no such report on the file though it was stated that a compromise had been effected in the family.

It has now been brought to the notice of this Court that as per the histopathological report, the cause of death was due to congestion of heart which is sufficient to cause death in the ordinary course of nature, as per the viscera report dated 31.07.2020 which had been sent for examination. The deceased was around 65 years of age and petitioners No.1 & 2 are his brothers, petitioner No.3 is son of another brother, Labh Chand and Pardeep Kumar, the son of other brother, Puran Chand. Thus, it would be a moot question before the Trial Court as to whether the offence under Section 302 would be made out, in such circumstances, on account of the medical report showing that the deceased was suffering from old heart ailment which led to the heart attack as the cause of death due to the incident which had taken place more than ten days earlier.

In such circumstances, no useful purpose would be served in keeping the petitioners in further custody. Resultantly, the present petition is allowed and the petitioners shall be released on regular bail, to the satisfaction of the Ilaqa/Duty Magistrate, Fazilka.

(G.S. SANDHAWALIA)
JUDGE

AUGUST 21, 2020
sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No