

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

Sr. No.103

**Crl. Misc. No.M-30761 of 2020
DATE OF DECISION: 01.10.2020**

MANISHA

..PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks grant of anticipatory bail in FIR No.168, dated 25.06.2020, registered at Police Station City Nuh, District Mewat, under Sections 304 & 34 IPC.

According to the FIR, the cousin of the complainant had sustained a fracture in his right hand which was plastered. A few days later, he developed pain and he contacted Ashok s/o Bhagat Singh who was working as a Doctor at Jeewan Hospital, Nuh. The said Ashok s/o Bhagat Singh advised him to come to the hospital for treatment by a surgeon. The complainant, his brother-in-law Shivnan and the injured cousin went to Jeevan Hospital but the surgeon was not available immediately. The cousin was got admitted to the hospital and the complainant was told that the doctor would be available by 9.00 PM. At about 7.00 PM, the complainant left leaving behind his brother-in-law Shivnan. At about 9.30 PM, he received a call from Shivnan that Doctor had not come yet. Another phone call was received at 4.00 AM and the complainant was informed that the health of his cousin was deteriorating and he was unable to speak. Upon reaching the hospital, he realized that the cousin had been taken to Life Hospital, Faridabad where he was declared brought dead.

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His brother-in-law informed him that the doctor had come at 1.30 AM and had operated upon the cousin. At about 3.30 AM, the brother-in-law Shivnan was called into the OT and was told that the condition of the cousin has deteriorated and he was not responding. An ambulance was called and the cousin was taken to Life Hospital.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated. She has been nominated as an accused upon an examination of the CCTV footage. But in fact, the petitioner was not even present at that point in time. The petitioner is willing to undergo a test identification parade and in case, the complainant party identifies her. She would have no legs to stand her.

I am afraid that the argument is misconceived. The police has no animus against the petitioner. Admittedly, she has been nominated as an accused on the basis of CCTV footage obtained from Jeevan Hospital. The allegation against the petitioner is that she administered anesthesia to the cousin of the complainant even though she is not a qualified Anesthetist. In fact, she is not even a qualified doctor. These are very serious allegations which cannot be brushed aside easily. Custodial interrogation of the petitioner is necessary for a fair conclusion of the investigation. Test identification parade is at the discretion of the investigating agency and the accused cannot dictate terms.

The petition has no merit and is dismissed.

01.10.2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No