

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

CRM-M No.28520 of 2019 (O&M)

Decided on: 06.01.2020

Ashok

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.268 dated 28.07.2018, for offence punishable under Sections 323, 506 of the Indian Penal Code, 1860 (in short 'IPC') (Section 302 IPC added later) registered at Police Station Matlauda, District Panipat.

The first petition seeking regular bail to the petitioner was dismissed as withdrawn on 30.05.2019 and the new ground for filing the 2nd petition is that some of the material witnesses have been examined, who have not proved the prosecution version.

Counsel for the petitioner has argued that as per the allegations in the FIR, the complainant – Jasmer Singh son of the deceased – Inder Singh has alleged that on 24.07.2018, his father had gone to his agricultural land in the morning and thereafter, he received a telephonic call from the petitioner – Ashok that his father was abusing

him. Later on, he went to his fields to give food to his father and found that his father was lying unconscious and on enquiry, he (father of the petitioner) stated that Ashok had given him injuries with a *lathi*. Later on during the treatment, Inder Singh (father of the petitioner) died and the FIR was registered.

Counsel for the petitioner has argued that the petitioner is in judicial custody since 30.07.2018 and the complainant has appeared as PW4. It is further submitted that while appearing as a witness – Jasmer Singh has though recorded that before the death of his father, his statement was recorded by the police and a CD was also prepared, however, it is an incorrect statement as neither any statement was recorded nor any CD was prepared.

Counsel for the petitioner has further argued that this witness has further stated that he did not receive any telephonic call from the petitioner and has never seen the petitioner giving beatings to his father. This witness has further stated that his father never told him that the petitioner has given any injuries to him.

Counsel for the petitioner has also submitted that the deceased was taken to General Hospital, Panipat on the next day from where he was referred to PGI, Rohtak. It is further argued that the MLR of the deceased was prepared by Dr. Mona Nagpal on the next day of the incident i.e. 25.07.2018 and therefore, the version given by the complainant that he has got his father admitted on the same day is not corroborated from the MLR.

Counsel for the petitioner has further referred to the statement of PW1 – Dr. Mona Nagpal, who has stated that the patient

when brought to the hospital had complained about pain on his neck, however, no injury was seen on the head, face, neck, shoulder, chest and waist of the complainant during the examination. This witness, in his cross-examination, has further stated that the possibility of receiving such injury on account of falling on a hard surface, cannot be ruled out.

Counsel for the petitioner has also submitted that PW4 – Jasmer Singh, is the only material witness and there is no eye-witness to the incident and as per the statement of this witness, no motive is attributed to the petitioner.

Counsel for the State, on instructions from ASI Naresh Kumar, could not dispute the fact that neither the police has recorded any statement of the deceased – Inder Singh nor any CD was prepared. The version given by PW1 – Dr. Mona Nagpal is also not disputed by counsel for the State, on instructions from the Investigating Officer.

As per the Custody Certificate, the petitioner has undergone 01 year, 05 months and 03 days of actual sentence and 08 prosecution witnesses have been examined before the trial Court out of 17 PWs and the conclusion of the trial will take some time.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 30.07.2018; the complainant has not supported the prosecution version; only 08 PWs have been examined so far out of 20 PWs; the custodial interrogation of the petitioner is not required and it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty

Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

06.01.2020
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No