

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

CRM-M-32985-2020 (O&M)

Date of decision : 30.10.2020

Nitin @ Nikky Kabbadi

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Mohit Sadana, Advocate, for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

ALKA SARIN, J. (ORAL)

Heard through Video Conferencing.

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 (CrPC) for grant of regular bail pending trial in FIR No. 228 dated 30.05.2019 under Section 302, 323, 148, 149 of the Indian Penal Code, 1860 registered at Police Station Rajindra Bagh, District Gurgaon.

The first petition filed by the petitioner being CRM-M-15814 of 2020 was dismissed as withdrawn vide order dated 08.07.2020.

Learned counsel for the petitioner has sought to argue the case on merits by contending that the complainant had taken the deceased to the hospital almost after 22 hours of the incident. Learned counsel for the petitioner has further referred to the deposition of witness No.5 i.e. the son of the deceased, wherein it has been stated that his father fell on the bricks and his head stuck against the brick. It is the contention of the learned counsel for the petitioner that the deceased died due to an accident by hitting his head on the bricks and not because of the blow given by the petitioner on the head of the deceased.

Learned counsel for the State has contended that the first petition was dismissed as withdrawn vide order dated 08.07.2020, which was filed on the very same basis as the present one and infact there has been no change of circumstances whatsoever since the earlier petition was got dismissed as withdrawn on 08.07.2020.

I have heard learned counsel for the parties.

The first petition filed by the petitioner-herein was dismissed as withdrawn on 08.07.2020. Learned counsel for the petitioner has not been able to point out any change in circumstances since the withdrawal of the first petition. The arguments on merits raised by the learned counsel for the petitioner that the deceased was taken to the hospital after 22 hours is of no avail to the petitioner at this stage inasmuch as the said fact has sufficiently been explained in the deposition of son of the deceased. Further the reliance of the petitioner on the deposition of the son of the deceased to contend that deceased died due to his head hitting the bricks when he fell is also of no avail to the petitioner inasmuch as the same would be gone into during Trial and not at this stage. Suffice it to say that a blow was given by the petitioner on the head of the deceased, which is stated to have caused the death of the deceased.

In view of the above and without commenting anything on the merits of the case, I do not deem it to be fit a case for grant of regular bail. It is made clear that nothing observed herein shall be construed as an expression of opinion on the merits of the case.

Dismissed.

October 30, 2020

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NOTE:

(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No

Whether reportable: Yes/No