

203

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

**CRM-M No.46717 of 2019
Date of Decision: 11.05.2020**

**Gaurav @ Gonda
Vs**

.....Petitioner

State of Punjab and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Vinod K. Kataria, Advocate
for the petitioner.

Mr. H.S. Grewal, AAG, Punjab.

(The case has been taken up for hearing through
video-conferencing.)

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.118 dated 18.10.2018 registered under Section 304 IPC at Police Station Mahilpur, District Hoshiarpur.

The alleged occurrence took place on 29.09.2018 when the petitioner Gaurav @ Gonda along with two unknown persons came in a car to 5 Peer religious place. The petitioner started giving beatings to Jodha Ram after coming out of the car. He gave fist blows on the face and chest of Jodha Ram and

also gave kick blows to him. Darshan Singh and Parmod Kumar, who were present at the spot, saved Jodha Ram. Thereafter, Jodha Ram started getting treatment from a private hospital. On 05.10.2018, Jodha Ram was taken to Civil Hospital, Garhshankar and thereafter to Guru Nanak Mission Hospital, Daba Kaleran. He remained admitted there. Thereafter, he was taken to PGI, Chandigarh on 12.10.2018 and was discharged on 15.10.2018. On the advise of doctor, Jodha Ram was taken back to home and on 18.10.2018, he died at home. The FIR came to be registered after 20 days of the alleged occurrence.

Learned counsel for the petitioner submits that the prosecution has not explained inordinate delay from 29.09.2019 to 18.10.2019 and the FIR was registered only after the death of Jodha Ram.

In MLC case, a ruqa is required to be sent by doctor to the nearest police station, even in case of private hospital. As per postmortem report, the deceased had developed some Ulcer in the body and was suffering from many ailments. Initially, the FIR was registered under Section 302/34 IPC. Thereafter, inquiry was conducted by the Deputy Superintendent of Police, wherein the alleged complicity of the petitioner was found to be under Section 304 IPC on the ground that on account of some minor arguments, man-handling of Jodha Ram took place on

29.09.2018 and the petitioner did not cause any injury with any weapon with an intention to cause death of Jodha Ram, rather Jodha Ram died due to some injuries during the course of man-handling after the treatment of 19/20 days.

Challan was submitted under Section 304 IPC on 11.07.2019. Earlier in CRM-M No.53576 of 2018, prayer for anticipatory bail was declined to the petitioner vide order dated 5.12.2018. Thereafter, the petitioner surrendered in Court on 27.05.2019 and since then he is in custody.

Wife of the deceased namely Mamta and two alleged eye-witnesses namely Darshan Singh and Parmod have been examined before the Trial Court on 06.03.2020. All the aforesaid prosecution witnesses have not supported the case of prosecution and have been declared hostile. The cross examination of the aforesaid witnesses has not yielded any incriminating information against the petitioner.

Learned State counsel, however, opposed the prayer for grant of regular bail on the ground that the trial is still pending.

Keeping in view the facts of the case, particularly in the light of testimonies of the complainant Mamta Rani and eye-witnesses namely Darshan Singh and Parmod, I deem it

appropriate to enlarge the petitioner on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

May 11, 2020
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(RAJ MOHAN SINGH)
JUDGE

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