

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26252-2021 (O&M)
Date of decision: 02.12.2021

Pritpal Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Prabhjot Singh, Advocate for
Mr. J.S. Sidhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for respondent No.2-complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.78 dated 30.03.2021 under Section 279, 337, 338, 427, 308, 304 IPC and Section 196 of Motor Vehicles Act, 1988, registered at Police Station Tripuri, District Patiala.

At the very outset, it is worth noticing that this case came up before the Coordinate Bench on 26.08.2021 and thereafter, none appeared on behalf of the petitioner and it was adjourned to 23.09.2021. When an application for preponing was moved, the date was preponed. Later, on refusal by the

Coordinate Bench, this case was listed before this Court. In the meantime, the petitioner filed Writ Petition (Crl.) No.408 of 2021 before the Hon'ble Supreme Court, in which the following order was passed: -

“Learned counsel for the petitioner has come with a complaint that in reference to FIR No.78/2021, dated 30.03.2021, registered at P.S. Tripuri Patiala, District Patiala, Punjab, he was taken into custody on 31.03.2021. After the bail application came to be dismissed by the Ld. Sessions Judge, an application has been filed at his instance for post-arrest bail before the High Court on 07.07.2021.

He has placed before us the cause list to indicate that several times his matter was listed, but unfortunately could not be heard.

Learned counsel submits that he seeks indulgence of this Court that at least his application for post-arrest bail which has been filed/instituted on 07.07.2021 may be heard as expeditiously as possible.

We are not going into the issue at the moment, but liberty of an individual is sacrosanct and we expect that if an application is filed wither pre or post arrest, under Sections 438/439 of the Cr.P.C., it must be taken up as expeditiously as possible. Although, no time limit can be fixed, but that is the minimal which can be expected to give an audience at the earliest.

We request the High Court to consider the bail application

CRM-M-26252/2021 filed by the petitioner on 07.07.2021 as expeditiously as possible.

With the afore-stated observations, the Writ Petition stands disposed of.

Pending application(s), if any, shall stand disposed of.”

For reference, statement of the complainant is reproduced as under:-

“I am a resident of abovesaid address and do agriculture. Today at about 6.00 p.m., I and my neighbour Waheguru Singh son of Sucha Singh resident of H. No.210-C, Ranjit Nagar, Bhadson Road, Patiala were going to our homes on my motorcycle after paying obeisance at Gurudwara Dukh Niwaran Sahib. When we reached traffic lights of Thapar University roundabout, my father Inderjit Singh and other farmers were protesting peacefully at traffic point on traffic lights. On my seeing, one Fortuner vehicle was coming at a high speed from Bhadson Octroi side, whose driver was driving it very negligently. Fortuner’s registration number was CH-01-AQ-6969 and on our seeing, he struck the vehicle intentionally against car mark Verna No.PB-11-AR-5505 stopped at traffic lights and also hit my father and other persons protesting there and also crushed one motorcyclist of motorcycle No.PB-11-BW-6409, lady and their child and also hit on side of Swift Car No.PB-11-AN-0967 coming from side of Thapar College. As vehicle struck on footpath, vehicle stopped. One Sikh

person was driving the Fortuner and one lady and girl were sitting in vehicle. The driver of Fortuner vehicle told his name as Pritpal Singh son of Jarnail Singh, resident of Chapad, presently resident of Kothi No.50, Phase-3, Urban Estate, Patiala. I started looking after my father and other persons sitting in vehicles, who were injured. Out of them, number of persons were in very serious condition and vehicles had also suffered huge damage. A large number of people had gathered there. On seeing the gathering of the people, the driver of Fortuner slipped away leaving behind his vehicle. I arranged the vehicle and was taking my injured father to Rajindra Hospital, Patiala for treatment but my father had expired on the way. The dead body of my father is lying in mortuary now. The driver of Fortuner vehicle has committed this accident due to negligence and intentionally despite knowing that there were two roundabouts and Thapar University is nearby, where there remain a gathering of people and students. Today on the even of Holi festival, there remains heavy traffic inflow at roundabout. You have recorded my statement after coming to Rajindra Hospital. I have heard and read my statement, which is correct. Appropriate legal action be initiated against Fortuner driver Pritpal Singh.”

Learned counsel for the petitioner has argued that the petitioner is a patient with history of epilepsy and is undergoing treatment at PGI since 2016 and relied upon the medical record (Annexures P-2 to P-4) to submit that he is undergoing seizure disorder treatment from PGI. It is further submitted that the

brain's electrical activity is periodically disturbed, which results in some degree of temporary brain dysfunction and in some cases, seizure causes uncontrollable shaking and loss of consciousness. The petitioner was admitted in the hospital on 29.03.2021 and was discharged on 30.03.2021 i.e. the date of accident. It is thus submitted that it will be a debatable issue whether Section 304 IPC is made out in the present case or it is a case falling under Section 304-A IPC.

Learned counsel has further submitted that the petitioner is in custody since 30.03.2021; investigation is complete and it will take some time in conclusion of the trial.

Learned State counsel, assisted by learned counsel for the complainant, has, however, heavily opposed the prayer for bail. It is argued that there was a peaceful demonstration of the farmers at the roundabout near Gurudwara Dukh Niwaran Sahib and the petitioner, while driving the vehicle in a negligent manner, intentionally struck the same against a car standing on the traffic lights and then hit the farmers sitting on an agitation. In that process, two minors aged about 16 years and 02 years and father of the complainant namely Inderjit Singh died. One person Gurpreet Singh suffered multiple injuries and has undergone two brain surgeries and remained on ventilator from 29.03.2021 to 05.04.2021 and has suffered huge medical expenses and he is still under treatment. As per opinion of the doctor, he had three other injuries. Apart from this, four other persons were also injured in the incident.

Learned counsel for the complainant has additionally argued that the petitioner has procured the driving licence by concealing his medical condition, as it is mandatory under the provisions of Motor Vehicles Act, as

prescribed in Form 1, as per Rule 5(2) and Form 1-A, as per Rules 5(1), (3), (7), 10(a), 14(d) & 18(d) of the Motor Vehicles Act/Rules and it is also mandatory to disclose by the applicant, who is applying for driving licence whether he is suffering from any disease like epilepsy or from sudden attacks of loss of consciousness etc. and if the answer is Yes, then the medical certificate should be attached. It is further argued that even as per proforma to be filled upon by the Medical Officer/Practitioner, such a declaration is to be made and by concealing all these facts, the petitioner has procured the driving licence, which has ultimately resulted into death of three persons and serious injuries to four other persons.

The common argument of learned State counsel and learned counsel for the complainant is that it is a case falling under Section 304 IPC and not under Section 304-A IPC, as argued on behalf of the petitioner.

After hearing learned counsel for the parties, I find no merit in the present petition.

Admittedly, it is own case of the petitioner that he is a patient of epilepsy since 2016 and without disclosing the said fact, he had procured the driving licence. It is further case of the petitioner that at the time of incident, he has suffered the seizure, which resulted into the accident, as he was later on admitted in the hospital.

A perusal of the FIR shows that after the accident, the petitioner ran away from the spot, instead of providing medical assistance to the persons, who had suffered injuries.

Mere fact that the petitioner is in custody since 30.03.2021 is not a

ground to grant him the concession of regular bail.

Accordingly, the present petition is dismissed.

SDM-cum-Transport Officer, who has issued the driving licence to the petitioner, is directed to suspend it immediately, till the time, the petitioner furnish the fresh medical fitness certificate from PGIMS, Chandigarh.

Nothing observed in this order will have any bearing on merits of case.

[ARVIND SINGH SANGWAN]
JUDGE

02.12.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No