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

CRM-M No. 29767 of 2021 (O&M)

Date of decision: 18.08.2021

Paras Arora

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. N. S. Shekhawat, Senior Advocate with
Mr. Tanvir Singh Grewal, Advocate,
for the petitioner.

Mr. Rajeev Anand, APP, for U.T. Chandigarh.

(Presence marked through video conferencing).

Arun Monga, J. (Oral)

CRM NO. 24476 OF 2021

For the reasons stated in the application, same is allowed
and final report under Section 173 Cr.P.C contained as Annexure P-9 is
taken on record, subject to all just exceptions.

CRM NO. 25570 OF 2021

For the reasons stated in the application, same is allowed
and final report under Section 173 Cr.P.C contained as Annexure R-1 is
taken on record, subject to all just exceptions

MAIN CASE

This is second foray of the petitioner before this court,
seeking regular bail in FIR No.17 dated 11.04.2021, registered under
Sections 307/333 IPC (Section 333 IPC added later on), at Police Station

Sector-19, Chandigarh, having got the first petition dismissed as withdrawn on 18.06.2021 with liberty to file a fresh petition.

2. Per prosecution, FIR was registered on the basis of complaint filed by Complainant Constable Parvesh alleging that on 10.04.2021 while he along with other police officials was deployed at *Naka* (barricade) in Sector-20, Chandigarh, at about 8.05 p.m., one car bearing registration No.CH-01-BX-7865 came at high speed. When ASI Ramesh Chander signaled to stop the car, its driver instead drove it towards him. ASI Ramesh Chander stepped backward and yet the driver bumped the car into him with an intention to kill. Due to the incident, ASI Ramesh Chander was tossed 3-4 feet in the air, fell down and received multiple injuries. The driver of the car then escaped from the place of occurrence. Later, accused/petitioner was arrested. Investigation was carried out. Challan was presented.

3. Learned senior counsel for the petitioner strenuously argues that had it been not a case of a police official having been hit by the petitioner/accused, in ordinary course at worst it is a case under Section 279 read with Section 338 IPC. However, to the misfortune of the petitioner, who is a young boy of 20 years of age, on the cross roads of his career and at the fateful time was going to his residence, the alleged accident took place with a police official. He was in fact just near his residence where a barricade had been erected, and as he took a left turn from the petrol pump side around being 8.00 p.m., being darkish, he misjudged the movement of the deceased police official (ASI) who got accidentally hit with his car. It is not case of intentional hitting, as is alleged by the prosecution.

4. Learned senior counsel further contends that as per the prosecution after being hit, the deceased ASI got tossed 4 to 5 feet in the air, but this is a complete concoction of the crime scene. He argues that after taking left on the slip road from the petrol pump, to enter B-road dividing Sector 20 'C' and 'D', the speed of the vehicle most certainly cannot be as high as has been alleged by the prosecution.

5. Learned senior counsel further argues that the deceased ASI had not suffered multiple injuries, as is alleged. He submits that as is borne out from medical record, there was only an injury on the knee and forehead which did not result in his demise, as he was discharged from the hospital after being kept in observation for 05 days. Observation was required since there was a minor fracture discovered on his skull. Be that as it may, after being healed of the injuries, he was discharged. It is unfortunate that later on the deceased contracted Covid-19 infection, which led to his death.

6. Learned senior counsel also argues that at every step, prosecution has acted in a *mala fide* manner, in fact, more in the spirit of taking revenge from the petitioner for having caused death to one of their serving colleague/police official. He further argues that even to the extent that, in the site plan filed in the trial Court, place of occurrence of accident has also been changed so as to show/prove that the car was moving on a high speed, which is not the case in reality. He argues that though the prosecution has made a case of hit and run but the petitioner was arrested on the spot, but his arrest was shown belatedly on the next date.

7. Per contra, learned State counsel opposes the bail plea of the petitioner. He submits that medico-legal report clearly establishes a case under Section 307 IPC. The contention of learned senior counsel that it is merely a case of 279/338 IPC is completely untenable at this stage and, in any case, it is a matter of trial. He further submits that the petitioner had not only hit the ASI, but also knowing fully well that such a hit can result in the death of a person, intentionally did not stop the car and fled away from the scene of crime. It was later on, after making inquiries from the Registering Authority qua registration number of the offending vehicle that the petitioner was arrested from the neighbourhood of his residence.

8. After hearing rival contentions as noted aforesaid, I am of the view that given the antecedents of the petitioner having no crime history who is of young age of 20 years, being on cross roads of his career and having already undergone incarceration for 04 months, no useful purpose will be served by keeping the petitioner in further preventive custody.

9. Since investigation is over and no further custodial interrogation of the petitioner is required. Challan has already been presented and the case is now fixed for prosecution evidence. Prosecution witnesses are all officials and there is no likelihood of them being influenced, in case the petitioner is granted concession of bail. Given the family back ground of the petitioner, since both his parents have been/are in government service there is no apprehension of absconding of the petitioner, if released on bail.

10. The contentions of the senior counsel for the petitioner, as noted above, though may have some substance but can only be tested

at the trial. However, the pending trial is also not likely to conclude anytime soon as the Courts are currently functioning under certain

restrictions caused by Covid-19 pandemic and till outcome thereof, to keep the petitioner in custody, seems to be improper and unfair at this stage.

11. Accordingly, considering the overall scenario, without commenting on the merits of the case, this petition is allowed. petitioner is directed to be released on bail, on his furnishing bail bonds and surety bonds to the satisfaction of learned Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

18.08.2021
shalini

(ARUN MONGA)
JUDGE

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