

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

**CRM-M No.28947 of 2020
Date of Decision : 14.01.2021**

Mukesh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. H.S. Deol, Advocate and
Mr. Vishal Lamba, Advocate
for the Petitioner.

Mr. Anmol Malik, Dy. Advocate General, Haryana
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.343, dated 17.10.2019, registered under Section 302 of the Indian Penal Code, 1860, at Police Station Khol, District Rewari.

2. Background of the matter is that on 17.10.2019 Complainant Vidhyanand reached Police Post, Dahina and informed the Police that his younger brother Jogender is lying dead near Shiv Mandir of the village. On receipt of said information, Police Party reached at the spot where the Complainant made a written Complaint to the Police regarding consumption of excessive alcohol by the deceased.

On the basis of written Complaint moved by Complainant Vidhyanand, Rapat No.11 dated 17.10.2019 was registered at Police Post, Dahina. The Postmortem on the dead body was got conducted at General Hospital, Rewari and as per the opinion of the Medical Board, the cause of death was shock and hemorrhage as a result of ante mortem injury sustained at chest caused by blunt force impact. On the basis of the Postmortem Report, a case under Section 302 IPC was registered. The matter was investigated by the Police. During investigation, the Petitioner was arrested by the Police on 03.11.2019 and on interrogation, the Petitioner suffered his Disclosure Statement admitting his involvement in the present crime.

3. It has been submitted on behalf of the Petitioner that he has not committed any crime and has been falsely implicated in this case by the Police. It has been further urged that there is no eye-witness of the alleged occurrence and that even the Complainant while lodging the FIR had stated that in his opinion his brother Jogender who was an addict had died on account of excessive consumption of liquor.

4. It has been further submitted that no recovery of any weapon was effected from the Petitioner who has remained in detention for more than 01 year and 02 months now. Investigation against the Petitioner has already been completed and Challan submitted, on account of which there is no justification to keep him in custody any

further.

5. The prayer for bail has been opposed on behalf of the State from whose side attention of the Court has been drawn to the Statements given by Witnesses Shri Bhagwan (Annexure P-5) and Navin (Annexure P-6) during their examination before the Investigating Officer under Section 161 of the Cr.P.C.

6. On perusal of these Statements, this Court is of the opinion that it cannot be said that there is absolutely no material whatsoever to link the Petitioner with the death of deceased-Jogender, since it is otherwise a matter of record that according to his Postmortem Report (Annexure P-2) the cause of his death was '*shock and hemorrhage as a result of ante mortem injury sustained to chest caused by some blunt force impact*'

7. The ultimate veracity and value of the aforesaid Statements is of course the matter to be assessed on its independent merits during trial. Undoubtedly, the Petitioner has undergone a substantial period of custody following his arrest on 3rd November, 2019. But the Prosecution side at this stage cannot be faulted for the delay so far occasioned in completion of trial. This is so because Charges were apparently framed in the month of February, 2020. Thereafter, no witnesses could be examined as the Courts ceased to function normally, throughout the year 2020 from the month of March itself, on account of

outbreak of Covid-19 Pandemic. Only with effect from this week the Subordinate Courts have reopened for regular functioning. The matter is now stated to be fixed on 24th of March for Prosecution evidence.

8. In these circumstances, at this stage, this Court is not inclined to release the Petitioner on bail.

9. Dismissed.

January 14, 2021

Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No