

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

CRM-M-32410 of 2020

DECIDED ON: 24th FEBRUARY, 2021

Devender Singh @ Sunny

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Rakesh Nehra, Advocate for petitioner.
Mr. Deepak Bhardwaj, DAG Haryana.
Mr. Krishan Singh, Advocate for complainant.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition for grant of regular bail in case of FIR No. 198 dated 13.6.2020, under Section 304 IPC, registered at Police Station Ladwa, District Kurukshetra.

The FIR was on the basis of statement of Sumer Chand (deceased). It was stated that on 29.5.2020 at about 8:30 a.m. that he was going towards his fields, Devender Singh @ Sunny (petitioner) was coming on the road, he started staring at the complainant. On asking as to why he was staring, the petitioner started fighting and gave kick and fist blows on stomach and chest. It was alleged that a gold ring, Rs.2000/- from his wallet was taken away. The complainant become unconscious and after regaining consciousness, he slowly reached the village. Near the house of his son Raj Pal, father of the petitioner throttled the neck of the complainant and the petitioner also gave beatings. The complainant was rescued by his son and his daughter-in-law. During treatment, the

complainant died on 13.6.2020.

Learned counsel for the petitioner submits that there was no such occurrence as alleged by the complainant. It was the complainant who tried to give a lathi blow to the petitioner, he missed and fell down. The contention is that statement of complainant was partially found incorrect as it was found that Raj Pal was not present at the spot and no money or gold ring was snatched. Reliance is placed on the treatment and detail made by the Doctor submitting that the complainant had sudden asystole, carotid/peripheral pulses was not felt and thereafter CPR started.

Learned State counsel opposes the bail and relies upon the post mortem report dated 14.6.2020.

The contention is that the petitioner has been specifically named in the FIR. The injury attributed to petitioner is the cause of death, as it is mentioned in post-mortem report "perforation peritonitis". He further submits that the deceased was brother of the grandfather of the petitioner. He was 82 years of age, he could not survive the injuries inflicted by the petitioner. The contention is that the complainant has not yet been examined and if the petitioner is enlarged on bail he would be in a position to influence the witnesses.

The relevant portion of post-mortem report is quoted below:

"Cause of death in this case in our opinion is due to complications of the injury sustained in the intestine due to blunt trauma over the abdomen which is sufficient to cause death in ordinary course of nature."

The story put up by the petitioner that no alleged incident took place and it was only that the complainant had fell while trying to give the blow to the petitioner would be subject matter of trial. After investigation

Section 302 IPC was deleted. Any further discussion on the said issue shall prejudice the trial. Merely as certain allegations in the statement made by the complainant were not found correct will not in itself be a basis that entire statement is to be discarded. At this stage, there is no occasion for this Court to doubt or disbelieve the opinion of the Doctor with regard to cause of death. The accused being related to the deceased is another aspect to be considered as the complainant has not yet been examined.

No case is made out for grant of bail.

The petition is dismissed.

However, it is clarified that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

24th FEBRUARY, 2021

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned *Yes*

Whether reportable *Yes*