

CRM-M-35799-2020

Date of Decision: 22.04.2021

Dharminder @ Jony

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Narinder Singh Lucky, Advocate,
for the petitioner.

Mr. Munish Sharma, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 18.01.2021, the following order had been passed:-

Case heard by video conferencing.

“By this petition, filed under the provisions of Section 439 of the Cr.P.C., the petitioner seeks the concession of ‘regular bail’, upon FIR no.232, dated 16.04.2020, having been registered at Police Station Mahesh Nagar, District Amabala, alleging therein the commission of an offence punishable under Section 304 of the IPC (with Section 302 of the IPC deleted and instead Section 304 of the IPC added subsequently).

Learned counsel for the petitioner submits that the offence punishable under Section 302 of the IPC was deleted from the FIR and instead an offence punishable under Section 304 thereof was added, with the petitioner having been in custody since April 2020.

Upon query to the learned State counsel, he on instructions from Sub-Inspector Balbir Singh, does not deny the aforesaid fact and upon further query, submits that in the challan it is stated that the petitioner and the deceased were going on a motorcycle in a drunken condition, with the motorcycle having fallen and the deceased therefore having sustained injuries due to which he died.

In view of the above, the petitioner is ordered to be admitted to interim bail till the next date of hearing before this court, on his furnishing adequate bail and surety bonds to the satisfaction of the learned trial court/CJM/Duty Magistrate concerned.

Since it would be surprising that in such circumstances the petitioner would not even report the matter (though that is only an observation made by this court in the context of the present petition alone and would not be taken to be an adverse comment as regards the trial), a gazetted officer is directed to file a reply to the petition well before the next date of hearing.

Adjourned to 15.04.2021.”

Thereafter, a reply has been filed on behalf of the respondent-State by the Deputy Superintendent of Police, Barara, confirming the fact that the offence punishable under the provisions of Section 302 of the IPC had been deleted from the FIR, with an offence punishable under the provisions of Section 304 thereof having instead been added.

Learned State counsel further submits that the report under Section 173 (2) of the Cr.P.C. has been submitted to the competent court but probably the charge has still not framed.

Learned counsel for the petitioner submits that the charge has still not been framed as the matter was adjourned yesterday to an indefinite date in view of the ongoing resurgence in the pandemic.

That being so, with the petitioner also having remained in custody for 08 to 09 months prior to being admitted to interim bail, and the case now being one alleging the commission of an offence punishable under the provisions of Section 304 of the IPC and not Section 302 thereof, without making any comment on the actual merits of the case, the petition is allowed, with the interim order dated 18.01.2021 made absolute.

April 22, 2021
nitin

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE
Yes
No.