

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-9192-2022

Date of Decision:-04.04.2022

Safeek.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Namit Khurana, Advocate for the Petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.197 dated 25.09.2021 under Sections 302, 194, 195, 199, 200 and 120-B IPC registered with Police Station Farakpur.

The brief facts of the case are that on 25.09.2021 a telephonic message was received in the police station regarding admission of injured Afsar Ali and Naajma in a roadside accident. When the police party reached the hospital the doctor declared Naajma unfit to make statement and declared Afsar Ali fit. Afsar Ali got recorded his statement to the effect that on 24.09.2021 he and his wife Naajma were walking at night after taking the meals when a Scorpio came from the back side being driven in a rash and negligent manner and hit them. The persons at the spot took them to

Gaba Hospital, Yamuna Nagar. Based on his statement the present FIR under Section 279 and 337 IPC came to be registered. Subsequently Naajma died due to the injuries sustained by her. Thereafter the information regarding the accident was sent to Imran, brother of the deceased Naajma who got his statement recorded to the effect that his sister Naajma and her husband Afsar Ali did not enjoy cordial relations and he suspected that Afsar Ali in conspiracy with others have committed the murder of his sister. Pursuant to his statement proceedings under Section 302 and 120-B IPC were added on 25.09.2021. During the course of investigation the statement of one Ravi Verma was recorded in which he stated that he was an eye witness to the occurrence and saw a Scorpio being driven at a high speed hitting the man and woman and the number of the vehicle was UP16 V 4970. On investigation it was found that owner of the vehicle was Amjad Ali, the first cousin of Afsar Ali. Thereafter Afsar Ali was arrested on 15.10.2021 where he disclosed the reason of his matrimonial discord. He further revealed that he discussed his matrimonial affairs with his cousin Mohd. Aslam who stated that Naajma could be killed using the vehicle of his brother Amjad Ali.

The prosecution version thereafter is that Mohd. Aslam came to Yamuna Nagar in a vehicle with another person as per previous planning with his cousin Afsar Ali the main accused. The vehicle was used to hit the deceased and Afsar Ali and it was made to look like an accident. On further investigation and the confessional statement of Mohd. Aslam, the petitioner was arrested on 06.12.2021.

As per Mohd. Aslam, the petitioner was accompanying him in the offending vehicle at the time when the commission of offence took

place.

The learned counsel for the petitioner submits that the initial case is of a roadside accident and it is only on suspicion that the FIR came to be registered under Section 302 IPC. He submits that the version of Ravi Verma cannot be believed. He further submits that so far as the present petitioner is concerned, there is no admissible evidence against him except the confessional statement of Mohd. Aslam as per which the petitioner was travelling in the offending vehicle. He also submits that no call location records of the present petitioner have been collected by the police officials to show the presence of the petitioner at the spot on the day of incident. He thus contends that the said confessional statement made in police custody has absolutely no evidentiary value and in the absence of any other evidence, the petitioner ought to be granted the concession of regular bail.

The Counsel for the State on the other hand contends that it is a serious offence where a man has conspired to murder his own wife and the petitioner is one of the main accused. On a query he however admits that other than the confessional statement of his co-accused, there is no admissible evidence available against the petitioner for having committed the offence in question.

I have heard the counsel of both the sides at length.

Admittedly, the initial version is one of a roadside accident. Subsequently, on investigation the events unfolded and it was found that original complainant Afsar Ali the husband of the deceased Naajma, infact was the main accused, who conspired with his cousin Mohd. Aslam to murder his wife. So far as the present petitioner is concerned his name features in the disclosure/confessional statement of Mohd. Aslam. Other

than being named in the said disclosure statement there is no admissible evidence available against the petitioner.

Petitioner is in custody since 15.10.2021 and after the filing of the challan on 4.1.2022 the case is listed for prosecution evidence on 19.04.2022. As on date no prosecution witness has been examined.

Keeping in view the aforementioned facts and circumstances and the period of custody undergone by the petitioner as also the fact that the trial in the present case is not likely to be concluded in near future, the the present petition is allowed and the petitioner **Safeek** son of Sh. Ghasi is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, Yamuna Nagar.

It is further made clear that if petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

(JASJIT SINGH BEDI)
JUDGE

April 04, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>