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

CRM-M-11532-2021 (O&M)

Date of Decision: 15.07.2022

Raj Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Puja Chopra, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. N.S. Gill, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-11287-2021

For the reasons mentioned in the application, the same is allowed and the Death Summary Report, Photographs as Annexures A-1 to A-3 are taken on record, subject to all just exceptions.

CRM-34025-2021

Allowed as prayed for, subject to all just exceptions.

CRM-M-11532-2021

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.114 dated 30.08.2020, under Sections 452, 323, 506 & 34 of the IPC (Section 304 of the IPC added later on), registered at Police Station Julkan, District Patiala.

It has been submitted by learned counsel for the petitioner that the petitioner has faced incarceration for about 8 months, and thereafter, vide orders passed by this Court on 17.03.2021, he was admitted on interim bail and the petitioner is present in the Court today and the learned counsel for the petitioner has submitted that she recognizes and identifies the petitioner. She further submitted that since the petitioner is in the deemed custody of the Court today, therefore, the present petition for grant of regular bail may be considered. She also submitted that it is a case where the allegations were that the petitioner had given injuries on the head and hand of the deceased and the FIR was lodged under Sections 452, 323, 506 & 34 of the IPC. Thereafter, the injured died and Section 304 of the IPC was added later on. She further submitted that in fact the injured had died due to appendicitis and that too after a period of 15 days, and therefore, the death of the injured was not connected with the simple injuries allegedly attributed by the petitioner. She referred to Annexure P-12 which is the opinion of the Board of Doctors in which it has been stated that the death was not related to the alleged trauma or assault on the abdomen as the patient remained healthy for 8 days after the alleged trauma but coincidentally deceased developed Appendix, Peritonitis, Sepsis and Covid-19. She has prayed that in view of the aforesaid position and the opinion of the doctors, the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. Davinder Bir Singh, learned DAG, Punjab has submitted that it is correct that the total incarceration of the petitioner was about 8 months and today he is present in Court and he is on interim bail. He further submitted that it is also correct that Section 304 of

the IPC was added later on when the victim had died. He also submitted that the petitioner is not involved in any other case but has opposed the bail on the ground that no witness has been examined.

Mr. N.S. Gill, Advocate has appeared on behalf of the complainant and has opposed the grant of regular bail to the petitioner.

I have heard the learned counsel for the parties.

The petitioner has suffered incarceration for about 8 months and he is not involved in any other case, as per the learned counsel for the parties. As per the opinion of Board of Doctors (Annexure P-12), the death was coincidental to deceased's condition of Appendix, Peritonitis, Sepsis and Covid-19 and that too the injured remained healthy for 8 days after the alleged trauma. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may abscond or flee from justice or may influence any witness, therefore, in view of the aforesaid facts and circumstances of the case, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

15.07.2022

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |