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

CRM-M-31265-2022 (O&M)

Date of decision : 28.09.2022

Mandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kashish Garg, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.26 dated 18.04.2022 registered under Sections 279, 304-A, 427 of the Indian Penal Code, 1860 (Section 304-A of IPC was deleted later on and Section 304 of IPC was added later on) at Police Station Sadar Rupnagar, District Rupnagar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 21.04.2022 and investigation is complete and the challan has been presented and there are 26 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of the trial is likely to take time. It is further submitted that the petitioner is not involved in any other case. It is contended that the present case is a case of an accident and initially, the FIR was registered under Section 304-A of IPC and subsequently, Section 304-A of IPC was deleted and Section 304 of IPC was added. It is further contended that the petitioner was not named in the FIR and that he had himself gone to surrender and on account of addition of Section 304 of IPC,

he was taken into custody. It is argued that in the present case, offence under Section 304 of IPC is not attracted and at best, offence under Section 304-A of IPC is attracted and has relied upon the judgment of the Hon'ble Supreme Court in **Prabhakaran Vs. State of Kerala** reported as **2007(3) RCR (Criminal) 605**, in support of his arguments. It is further argued that a perusal of site plan (Annexure P-3) and report of the bus (Annexure P-4) would also indicate that the bus driver (petitioner) was not at fault.

Learned State Counsel, on the other hand, has opposed the present petition for grant of regular bail to the petitioner and has submitted that on account of the accident which had taken place in the present case, seven persons who were travelling in Creta car have lost their lives as the car, after having been struck by the bus, had fallen into the canal and all the said persons in the car had died.

This Court has heard the learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 21.04.2022 and investigation is complete and the challan has already been presented and out of 26 prosecution witnesses, none have been examined as yet and thus, the conclusion of the trial is likely to take time. The petitioner is stated to be not involved in any other case. The petitioner was not named in the FIR and he had himself gone to surrender. Initially, the FIR was registered under Section 304-A of IPC and thereafter, when the petitioner was arrested, Section 304 of IPC was added after deleting Section 304-A of IPC. There is no allegation that the driver of the bus was under the influence of alcohol or

any other drug. The question as to whether in the present case, offence under Section 304 of IPC is attracted or Section 304-A of IPC is attracted, would be finally adjudicated during the course of trial. Reference to the site plan (Annexure P-3) and report of the bus (Annexure P-4) would also show that there are arguable points in favour of the petitioner on the debatable aspect as to whether it was the bus driver (petitioner) or the driver of Creta Car, who was negligent. The said aspect would also finally be adjudicated during the course of trial.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid order.

28.09.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No