

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

205

CRM-M-40915-2021

Date of Decision : 02.02.2022

MOHD HAROON

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. J.S.Jaidka, Advocate
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State.

SANT PARKASH, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.66 dated 05.04.2021 registered under Sections 304 and 279 of the Indian Penal Code, 1860 at Police Station Division No.6, District Ludhiana.

Brief facts of the case are that the petitioner, who is doing the business of construction as well as repair of the buildings was given contract by owner of the factory co-accused Jaswinder Singh @ Sonu for uplifting of the roof of the factory but due to negligence on the part of factory owner and contractor Mohd. Haroon (petitioner), the upper portion of the building got collapsed and in the incident, death of five labourers had taken place and 11 other people were injured.

The petitioner, who is in custody since 28.07.2021, has filed the present (first) petition for grant of regular bail.

The petition has been opposed by learned State Counsel. However, no reply has been filed by respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner is doing the business of construction work for the last 30 years and no such incident had ever taken place. The alleged incident was only an accident. No recovery is to be effected from the petitioner. Co-accused Jaswinder Singh @ Sonu who is the owner of the premises has already been granted the concession of regular bail. The trial is likely to take long time. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has opposed the arguments addressed by learned Counsel for the petitioner and has submitted that the petitioner did not had any kind of technical knowledge to carry out such work and due to his negligence such incident had taken place. In view of the seriousness of the offence, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

After having heard, it has been revealed that it was the petitioner only, who was having the day to day control and management of the construction work being carried out at the spot. It was for him only to take appropriate care and caution so that no such incident could take place. From the circumstances, it can be gathered that on account of his sheer negligence, the unfortunate incident resulting into the death of five persons and injuring eleven had took place. The case of the

petitioner could not be equated with that of the owner of the premises who was not managing the affairs at the spot.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the seriousness of the offence and also if granted bail, there is possibility of the petitioner absconding to face trial, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition for grant of regular bail to the petitioner is dismissed.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

02.02.2022
kavneet singh

(SANT PARKASH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No