

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

CRM-M-52185 of 2021 (O&M)

DECIDED ON: 7th March, 2022

Mahender Singh

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Navmohit Singh, Advocate for petitioner.

Ms. Geeta Sharma, DAG Haryana.

AVNEESH JHINGAN, J (ORAL)

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 439 Cr.P.C. is filed seeking regular bail in case of FIR No.38 dated 28.1.2021, under Section 302 IPC (Section 201 read with Section 34 IPC added lateron), registered at Police Station Pundri, Kaithal.

The brief facts are that on 28.1.2021 police received a telephonic message of a body lying near the fields of Swaran Singh, on Habri to Tyontha Road. Pradeep identified body as of his father Baba Sangampuri @ Suresh kumar. In the post-mortem report of deceased doctors found external injuries i.e. both eyes were swollen and reddish coloration present; crushed injury on both toes of feet both superficial laceration of size 2 x 1 cm on distal part of all toes both feet; a superficial abrasion of size 4x3 cm present on left medial part of left knee joint, red in court; a dark red bruise of size 3x4 cm in right part of upper abdomen present and facial and frontal swelling present. On dissection extradural hematoma of size 10x6 cm was found present on right side of temporal parietal part of skull.

Supplementary statement was made by son of the deceased on 3.2.2021, he named four accused including the petitioner. The accused were arrested, their disclosure statements were recorded. As per disclosure they were consuming liquor with the deceased, he made a derogatory remarks against one of accused. There was an altercation and all of them inflicted injuries. Clothes of the petitioner were recovered at his instance from an iron almirah in his house.

Learned counsel for the petitioner submits that apart from the bald statement of son of the deceased there is no basis to connect the petitioner with the death of the deceased. No blood stains were found on the recovered clothes of petitioner. The case against the petitioner is on the basis of disclosure statement. There was no weapon used and only injuries by slaps and fists were inflicted, contention is that there was no intention to kill.

Learned State counsel opposes the prayer for bail and submits that the complainant on the basis of enquiry from his own sources named the petitioner and the accused. She submits that investigation is complete, one prosecution witness, out of total thirty prosecution witnesses, has been examined.

The petitioner is in custody since 6.2.2021. The involvement of petitioner is based upon supplementary statement made by son of the deceased. Whether a case under Section 302 IPC is made out is a debatable issue. As per FSL report there were no blood stains on the clothes recovered at the instance of petitioner. Trial is at initial stage, the petitioner has no criminal antecedents and conclusion of trial is likely to take time, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

7th March, 2022
reema

(AVNEESH JHINGAN)
JUDGE

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