

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

226

CRM-M-47834 of 2022 (O&M)

Date of Decision:13.12.2022

Monu @ Phalu

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Saurabh Dalal, Advocate,
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.282 dated 12.07.2022, under Sections 302 and 34 IPC which were subsequently converted into 304, 201 IPC, registered at Police Station Murthal, District Sonipat.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 15.07.2022, which is almost five months and the investigation of the case has been completed and thereafter the report under Section 173 of the Code of Criminal Procedure has been submitted to the competent Court. He submitted that initially the FIR was lodged under Section 302 IPC but during investigation it was found that it is a case of accident and therefore Section 302 IPC was deleted and Section 304 IPC was added. He submitted that as

per the allegation, the entire case rested on the basis of last seen theory wherein the allegations were that the petitioner alongwith the deceased and one more co-accused who were friends were seen together and thereafter the deceased was found after sometime. He submitted that it was not a case of committing of any murder but an accident had taken place for which the petitioner was not at a fault. He further submitted that be that as it may, he has already undergone almost five months incarceration and now challan has also been presented to the competent Court and therefore he may be considered for the grant of regular bail.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana has stated that so far as the custody of the present petitioner is concerned, the same is correct and it is also correct that the challan has been presented to the competent Court after dropping Section 302 IPC and adding Section 304 IPC. He has however submitted that it is a case where the petitioner was driving the auto-rickshaw which turned turtle and the petitioner did not attend the deceased properly thereafter the deceased had died.

I have heard the learned counsel for the parties.

It is a case where earlier the FIR was registered under Section 302 IPC but thereafter during the course of investigation the provisions of Section 302 IPC were deleted and Section 304 IPC added and the investigation of the present case has been completed. The petitioner is stated to be in custody from the last about five months and the trial of the case may take long time. Furthermore, it is not the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail, then he may abscond from justice or he may repeat the offence.

In view of the aforesaid facts and circumstances, the present petition is allowed. The petitioner shall be released on regular bail if not required in any other case subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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.

(JASGURPREET SINGH PURI)
JUDGE

December 13, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No