

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

CRM-M-276-2023

Date of Decision:-12.01.2023

Ashok Masih.

.....Petitioner.

Versus

State of Punjab.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Amit Dhawan, Advocate for the Petitioner.

Mr. Aman Dhir, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.110 dated 29.08.2021 under Section 304 IPC registered at Police Station Division No.1, District Police Commissionerate Jalandhar.

The brief facts of the case are that statement of one Jubin Arora was recorded to the effect that he was running a shop at Focal Point. On 28.08.2021 he along with his sister Utsav were going from the house of their paternal uncle namely Prem Parkash Bhatta, Sehgal Mohalla, near Khingra Gate towards their own home at Guru Amar Das Nagar. His sister Utsav was driving her Acura white colour and he was following her on his (complainant's) Acura. Meanwhile, near the DAV Flyover one Tipper Truck bearing No.PB-46-A-5657 was going at a high speed and the driver of the tipper was driving the same in a negligent manner. When he along with his sister reached Maqsudan Chowk then the driver of the tipper took a turn suddenly towards the Acura of his sister. He (driver of the tipper-petitioner) started arguing with his sister and using bad words towards her.

He (Complainant) walked towards them and asked his sister to go further. The driver of the tipper was driving the tipper behind them (complainant party). At about 4.30 to 5.00 PM while his sister was crossing Maqsudan flyover then the tipper came at a high speed and while uttering bad words to his sister rammed the tipper towards her Acura from behind because of which his sister along with Acura fell down on the road. The driver of the tipper drove away the same while crushing his sister from the back tyres of the tipper. Subsequently, he came to know about the name of the driver of the tipper to be Ashok Masih (petitioner). During the course of treatment his sister expired.

The Counsel for the petitioner contends that it was the deceased namely Utsav, sister of the complainant who had driven the Acura in a rash and negligent manner and struck the same against the tipper. The complainant was not a witness to the occurrence and had got registered the instant false FIR against the petitioner. A simple case of an accident has been converted to a case under Section 304 IPC. The petitioner was in custody since 29.08.2021 and the investigation stood complete. Only 01 out of 21 prosecution witnesses had been examined so far. As the petitioner was a first time offender having no criminal antecedents, his further incarceration was not required and he ought to be granted the concession of bail.

The Counsel for the State on the other hand contends that the nature of allegations against the petitioner did not entitle him to the grant of bail. He deliberately drove his vehicle over the deceased leading to her death. He however, admits that the FIR came to be registered under Section 304 IPC and the charges have also been framed under the said section and no charge under Section 302 IPC has been framed. He also admits the period of custody undergone by the petitioner as also the stage of trial.

I have heard learned Counsel for both the parties at length.

The veracity of the prosecution case shall be adjudicated upon during the course of Trial. The petitioner is in custody since 29.08.2021 and only 01 out of 21 cited prosecution witnesses has been examined. The petitioner is a first time offender with clean antecedents and as such his further incarceration is not required.

Thus, without commenting on the merits of the case, the petitioner-**Ashok Masih** son of Sh. Jit Masih is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

In addition, the petitioner (or any one on his behalf) shall prepare a FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 12, 2023
Vinay

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