

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

207

**CRM-M-4487 of 2022 (O&M)
DECIDED ON: 9th January, 2023**

Khushwinder alias Khush

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Vansh Malhotra, Advocate for petitioner.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN, J (ORAL)

This is second petition under Section 439 Cr.P.C. seeking regular bail in case of FIR No.421 dated 3.11.2020, under Sections 323, 307, 506 read with Section 34 IPC, 1860 registered at Police Station Kaithal City, District Kaithal (Section 302 read with Section 34 IPC, 1860 was added lateron).

First petition was dismissed as withdrawn on 30.7.2021 with liberty to revive the prayer at a later stage.

The brief facts are that the FIR was registered at the instance of Anil Kumar. He alleged that on 30.10.2020 his father Subhash alongwith Ram Parsad were going on a motor cycle and a mishap with a motor cycle driven in a rash and negligent manner by Gulab was averted. On caution given to Gulab for driving safely he took out the iron rod from the truck parked and called his friend Khushwinder alias Khush (petitioner) and two other boys. They gave injuries to Ram Parsad and father of the complainant. The petitioner was carrying an iron rod and other two boys were armed with wooden danda. The role attributed to the petitioner is that he inflicted injuries in the abdomen of father of complainant and when Ram Parsad tried to rescue his father, injuries were inflicted to him. Subhash died on 4.11.2020 and Section 302 IPC was added.

Learned counsel for the petitioner submits that the petitioner is in custody since 12.11.2020. There is no specific cause of death in the postmortem report. He further submits that only eye witness in the case had not supported the case of the prosecution and not identified the petitioner during the Court proceedings. He further submits that the FIR was at the instance of Anil Kumar who was not present at the spot and no statement of the injured/deceased was ever recorded.

Latest Status report filed is taken on record.

Learned State counsel opposes the prayer and submits that a specific role is attributed in the FIR to the petitioner. He submits that the Doctor has not ruled out the possibility of cause of death being the injuries attributed to the petitioner.

The observation made hereinafter are only for the purpose of deciding the bail petition and shall not be construed as an expression of opinion on the merits of the case.

The petitioner is in custody since 12.11.2020; only eye witness has turned hostile; there is no statement available of injured/deceased on record; the allegations made by the complainant were on the basis of the instance narrated to him by the deceased, the petitioner is not involved in any other case, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

Since the main case has been decided, the pending application, if any is rendered infructuous.

9th January, 2023

reema

(AVNEESH JHINGAN)
JUDGE

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