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

**CRM-M-8278 of 2023
Date of Decision: 13.04.2023**

Ramesh Singh

.....PETITIONER

Vs.

State of Punjab

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Prabhjot Singh, Advocate for the petitioner.

Mr.Sanjeev Soni, Addl.AG Punjab.

RAJ MOHAN SINGH, J (Oral)

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C. in case FIR No.13 dated 15.03.2019 under Sections 452/306 IPC (later enhanced to 304 IPC), P.S.Khuhi Khera, District Fazilka.

As per allegations, the petitioner after scaling the wall of the house of the complainant administered poisonous substance to the sister of the complainant in the presence of the complainant. The complainant made hue and cry and tried to stop the petitioner but he succeeded in pushing her away after making the deceased to consume the said poisonous substance and fled away after scaling the wall of the house. The complainant inserted her fingers into the mouth of her sister in order to make her to vomit out the substance but in vain. The

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condition of Pooja, sister of the complainant, started deteriorating and the complainant raised alarm. In the meantime, sister of the complainant started vomiting and her condition improved and she gained consciousness. Occurrence took place on 14.03.2019 at about 10.00 pm, when the complainant and her sister Pooja were present in the house. When the condition of the sister of the complainant improved, she received a phone call from the petitioner on the mobile and started weeping. On 15.03.2019 at about 10-11.00 am, the health condition of the sister of the complainant started deteriorating and the complainant after arranging the vehicle, took her to Civil Hospital, Abohar, where she died during her treatment. Initially, FIR under Section 306 IPC was registered. At the time of filing of challan, offence under Section 306 IPC was replaced by the offence under Section 304 IPC.

Learned counsel for the petitioner submits that no complaint was made by the complainant on 14.03.2019 in respect of the alleged attempt made by the petitioner to abet the commission of the offence under Section 306 IPC. As per post mortem report, no abnormality has been detected as per internal examination of the deceased. All the parameters were found to be in order, however, as per viscera report, aluminium phosphide was detected in the contents of Exhibits III and IV i.e. part of small and large intestines and blood sample.

Learned counsel for the petitioner further submits that police has also collected all records of the mobile of the petitioner and that of the deceased. Perusal of the call records would indicate that call was made from the phone of the deceased to the phone of the petitioner at 11.40 P.M. on 15.03.2019. At that time, phone of the deceased was in possession of the complainant but the complainant did not hand over the said phone to the police either on 15.03.2019 or soon thereafter but ultimately handed over the same on 13.07.2019. The call details were found tempered. As of now, the messages from the mobile of the petitioner to the mobile of the deceased in response thereto have been detected. Mobile of the deceased is incriminating material which would advance the alleged complicity of the petitioner viz a viz under Section 306 IPC or 304 IPC. Petitioner is in custody for the last more than 3 years and 4 months. Out of 18 prosecution witnesses, only 2 witnesses have been examined so far.

Per contra, learned State counsel opposes the bail and submits that out of 18 prosecution witnesses, only 2 witnesses have been examined so far and the petitioner is in custody since more than 3 years and 4 months and now trial is fixed for 25.04.2023.

Keeping in view the aforesaid attending facts and circumstances of the case and without meaning anything on the

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merits of the case, at this stage, I deem it appropriate to grant regular bail to the petitioner subject to his furnishing adequate bail bonds/ surety bonds to the satisfaction of the trial Court/concerned duty Magistrate.

The present petition is accordingly allowed.

Nothing expressed hereinabove would be construed to be an opinion on ultimate merits of the case.

13.04.2023
Meenu

(RAJ MOHAN SINGH)
JUDGE

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