

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18399-2022
Date of Decision:-10.04.2023

LOVE KUMAR HANS

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Rajesh Punj, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

Mr. Ritesh Pandey, Advocate
for the complainant.

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KARAMJIT SINGH, J. (Oral)

Prayer is for grant of anticipatory bail in case having FIR No.5 dated 13.1.2022 registered under Section 304-A IPC (Sections 304, 149 IPC added later on), at Police Station City Gurdaspur, District Gurdaspur.

The allegations in nut-shell are that deceased Rohit Kumar son of the complainant fell from a motorcycle and sustained injuries on his lip and below eye and was admitted in Civil Hospital, Gurdaspur for his

treatment. During treatment, Dr. Rachna told the complainant that his son is to be operated upon and asked the complainant to get him treated from Dr. Jonathan at Guru Nanak Hospital at Pandori Road, Gurdaspur and then injured Rohit was taken to said hospital being run by Dr. Rohit Hans where the complainant met Dr. Jonathan and after checking, the patient was admitted and Rohit was to be operated on the next morning and accordingly on 13.1.2022, the patient was taken to operation theater by Dr. Jonathan and during operation, Rohit died due to negligence of doctor concerned and on this, Dr. Jonathan fled away from there while leaving the dead body in the operation theater. Thereafter on 21.1.2022, petitioner was also named as accused being responsible for aforesaid medical negligence.

Counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case after about 8 days of registration of the FIR. That main accused Dr. Jonathan has already been granted concession of anticipatory bail by the Hon'ble Apex Court vide order dated 22.2.2023 and the copy of the order is taken on record. The counsel for the petitioner further submits that the petitioner who has been granted interim bail vide order dated 2.5.2022 has joined investigation and fully cooperated with the police.

The counsel appearing on behalf of the complainant while resisting the present petition submits that the petitioner is a government doctor but the operation in question was conducted in a private hospital having no proper medical facility to meet with the emergency situation. The counsel for the complainant submits that even the petitioner was also present in the aforesaid private hospital when the Rohit was operated upon and died

due to medical negligence. The counsel further submits that petitioner is equally liable for the death of the Rohit. The counsel further submits that initially the FIR was registered against Dr. Jonathan who is already granted anticipatory bail by the Hon’ble Apex Court.

The State counsel on instructions from SI Surinderjit Singh apprised the Court that indeed the petitioner has joined the investigation. The State counsel has not disputed the fact that main accused Dr. Jonathan has already granted concession of anticipatory bail by the Hon’ble Supreme Court. The State counsel further submits that the petitioner is not required by police for further investigation or for custodial interrogation.

In view of the above, without commenting on the merits of the case, the present petition is hereby allowed and order dated 22.5.2022 is hereby made absolute. The petitioner should abide by the conditions envisaged under Section 438(2) Cr.P.C.

10.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No