

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-25314-2023  
DECIDED ON: 04.09.2023

NARESH ALIAS NARESH KUMAR ALIAS MIRCHI  
.....PETITIONER

VERSUS

STATE OF HARYANA  
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Harvinder Singh Mann, Advocate and  
Mr. Avneet Kaur, Advocate  
for the petitioner.

Mr. Sandeep Singh Mann, Addl. AG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.18, dated 13.01.2022, under Sections 302, 323, 345 of IPC, 1860, registered at Police Station Tohana, District Fatehabad.
2. Learned counsel for the petitioner contends that initially the petitioner was not named in the FIR, but has been arrayed as an accused subsequently on the basis of disclosure statement of main accused namely Prem Singh, who is the father of the petitioner. It is also pointed out by the counsel for the petitioner that the cause of death as per MLR is injury No.4 inflicted on the chest and that has been attributed to Prem Singh, whereas no other injury according to the MLR is coming forth, which is attributed to the petitioner in any manner whatsoever. He is alleged to have been roped in the instant FIR merely with the allegation that he was accompanying and had given legs and fist blows on the body of the deceased.
3. Learned State counsel has filed the custody certificate of the petitioner,

which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 6 months and 13 days. He contends that the petitioner had given legs and fist blow on the body of the deceased, while he was lying on the ground, but could not dispute the fact on a specific question put by the Court that injury No.4 i.e., on the chest was the cause of death is attributed to the co-accused Prem Singh. Apart from that there is no other argument raised by the learned State counsel.

4. Having heard learned counsel for the respective parties and after going through the record available before this Court, it is apparent that the cause of death has been recorded as injury No.4, which is on the chest and admittedly attributed to the Prem Singh not the petitioner. Apart from that complainant stands examined and out of total 19 prosecution witnesses, only 1 stands examined so far, since the framing of charges on 03.08.2022, which is suffice to the mind of this Court that trial is likely to take long time.

5. Considering the aforesaid facts as well as the custody period i.e., 1 year 6 months and 13 days added with the fact that petitioner is a person of clean antecedents, who is not involved in any other case of any nature and in the instant FIR, there is no role whatsoever attributed except giving legs and fist blows as per the prosecution case, but the MLR is also not corroborating the said injury, which for the purpose of considering the petition for regular bail is good enough to hold that petitioner deserves to be released, who cannot be detained behind the bars for an indefinite period, which would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying the judgment of the Apex Court passed in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.*

is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7.           The present petition is, hereby, allowed.
8.           However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

04.09.2023

Meenu

(SANDEEP MOUDGIL)  
JUDGE

Whether speaking/reasoned      Yes/No

Whether reportable                Yes/No