

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

CRM-M-34906-2023
Date of decision : 31.08.2023

Sumit

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Mohit, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0582 dated 03.10.2022, registered for offence punishable under Section 302 of IPC 1860, at Police Station Tehsil Camp Panipat, District Panipat.

2. Contents of the FIR read as under:-

“To, SHO, Police Station, Tehsil Camp, Panipat. Sir, I request that I am Shishu Pal son of late Mr. Karan Singh, caste blacksmith, resident of New Vikas Nagar, near Ram Mandir, Tehsil Camp, Panipat. I am a hard working laborer. We were four brothers. My elder brother Mahipal was murdered in the year 2008. Now I and my elder brother Rajpal used to live together in the same house and my elder brother Vijaypal stays away from us. My brother Rajpal used to come home after drinking alcohol, event today also he come home after drinking alcohol as usual. He after some time started abusing his son Sumit, due to which they had a lot of argument and scuffle, on which Rajpal and Sumit both picked up knife which was

used to cut vegetable. Sumit with the knife in his hand hit my brother Rajpal on the right side of the chest. As soon as the knife hit my brother, he fell down and as soon as he fell down, my brother Rajpal died. Please take legal action against Sumit. SD Shishupal S/O SH. KARAN SINGH resident of VIKASH RASAR TEHSIL CAMP PANIPAT MOB. 9416221321. Action taken by police, today I am with ASI Pushpendra no.995 with Vehicle Government No. HR06BA3001 whose driver was constable Gajendra no. 1393 was on patrolling duty, then information was received from the control room Panipat that a fight has occurred in New Vikas Nagar Tehsil Camp Panipat and asked us to reach on the spot. On this information, I ASI alongwith colleague ASI and Government vehicle reached on the spot. There, Shishu Pal s/o Mr. Karan Singh was found present who submitted awritten application to ASI, which was found to be a crime of 302 IPC. Tahir Haja Baraye for registration of case was sent with ASI Pushpendra no.995 to police station. After registration of the case, number of it be informed. I, the FSL team should be sent on the spot and the special report of case Haja should be sent to Afsran Bala or higher officials should be informed. Today: New Vikas Nagar Tehsil Camp Panipat SD Dharambir ASI Police Station Tehsil Camp Panipat Dated 03.10.2012. Police station : On receipt of Hasb Amda Tahrir at Police Station. FIR No. 582 Dated 03.10.2022 Section 302 IPC Police Station Tehsil Camp Panipat was registered. Copies of the FIR after being prepared by computer, copy Mishal Police with the original Tahrir is being sent to IO on spot through ASI Pushpindra 995. Remaining copies of the FIR Special Report be set by Post Deepak 961 to the area Magistrate Saheb and High Officer Bala. The case was registered in the CCTNS CODE of SHO sir and in the presence of PSI Ajay.”

3. Counsel for the petitioner submits that from the contents of the FIR, it is evident that it was the deceased who was the attacking party and the action of the petitioner is in self defence. Thus, it will be a seriously debatable question whether the homicide in the present case amounts to murder or not. Petitioner is in custody since 04.10.2022 and has faced incarceration for more than 10 months and 26 days.
4. Counsel for the petitioner further submits that the material witnesses including the complainant have not supported the prosecution.
5. Counsel for the State does not dispute the aforesaid factual assertions.
6. Keeping in view the incarceration already suffered by the petitioner and the fact that it is in issue whether the petitioner can be accused of offence punishable under Section 302 or offence will be punishable under Section 304 IPC, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.
7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

31.08.2023

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No