

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-37300-2023

Date of Decision:-08.08.2023

Afsar Ali.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ashik Ali, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.197 dated 25.09.2021 under Sections 302, 194, 195, 199, 200 and 120-B IPC registered with Police Station Farakpur.

2. The brief facts of the case are that on 25.09.2021 a telephonic message was received in the police station regarding admission of injured Afsar Ali (petitioner) and Naajma in a roadside accident. When the police party reached the hospital the doctor declared Naajma unfit to make statement and declared Afsar Ali fit. Afsar Ali got recorded his statement to the effect that on 24.09.2021 he and his wife Naajma were walking at night after taking the meals when a Scorpio came from the back side being driven in a rash and negligent manner and hit them. The persons at the spot took them to Gaba Hospital, Yamuna Nagar. Based on his statement the present FIR under Section 279 and 337 IPC came to be registered. Subsequently

Naajma died due to the injuries sustained by her. Thereafter the information regarding the accident was sent to Imran, brother of the deceased Naajma who got his statement recorded to the effect that his sister Naajma and her husband Afsar Ali did not enjoy cordial relations and he suspected that Afsar Ali in conspiracy with others have committed the murder of his sister. Pursuant to his statement proceedings under Section 302 and 120-B IPC were added on 25.09.2021. During the course of investigation the statement of one Ravi Verma was recorded in which he stated that he was an eye witness to the occurrence and saw a Scorpio being driven at a high speed hitting the man and woman and the number of the vehicle was UP16 V 4970. On investigation it was found that owner of the vehicle was Amjad Ali, the first cousin of Afsar Ali. Thereafter Afsar Ali was arrested on 15.10.2021 where he disclosed the reason of his matrimonial discord. He further revealed that he discussed his matrimonial affairs with his cousin Mohd. Aslam who stated that Naajma could be killed using the vehicle of his brother Amjad Ali.

The prosecution version thereafter is that Mohd. Aslam came to Yamuna Nagar in a vehicle with another person as per previous planning with his cousin Afsar Ali the main accused. The vehicle was used to hit the deceased and Afsar Ali and it was made to look like an accident. On further investigation and the confessional statement of Mohd. Aslam, one Safeek (since granted bail vide order dated 04.04.2022 in CRM-M-9192-2022) was arrested on 06.12.2021.

3. The learned counsel for the petitioner submits that the initial case is of a roadside accident and it is only on suspicion that the FIR came to be registered under Section 302 IPC. He submits that now the statements of PW-14 Ravi Verma and PW-17 Imran brother of the deceased have been

recorded and they have not supported the prosecution case. As the petitioner was in custody since 15.10.2021 and only 08 of the 36 prosecution witnesses have been examined so far, he was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that it is a serious offence where a man has conspired to murder his own wife. Therefore, the petitioner who is the husband of the deceased was not entitled to the concession of bail. He however, concedes that two material witnesses i.e. Ravi Verma-PW-14 and Imran-PW-17 have been examined during the course of trial and have not supported the prosecution case. He also concedes that the petitioner is in custody since 15.10.2021, only 08 of the 36 prosecution witnesses have been examined so far and that he is a first time offender.

5. I have heard the counsel for both the parties at length.

6. Admittedly, the two material witnesses have been examined and have not supported the prosecution case. Whether the remaining evidence is sufficient to inculcate the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is stated to be in custody since 15.10.2021 and only 08 out of 36 prosecution witnesses have been examined so far including the two material witnesses. Therefore as the Trial of the present case is not likely to be concluded anytime soon the further incarceration of the petitioner is not required.

7. Keeping in view the aforementioned facts and circumstances and the period of custody undergone by the petitioner as also the fact that the trial in the present case is not likely to be concluded in near future, the present petition is allowed and the petitioner **Afsar Ali** son of Sh. Noor Mohammad is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 08, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No