

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

CRM-M-40474-2023

Date of Decision:-12.09.2023

Amit Kumar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Pratham Sethi, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Ms. Tejaswini, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.274 dated 29.05.2023 under Sections 279, 304-A IPC; Sections 279, 304-A IPC deleted and Section 304 IPC added later on registered at Police Station Sector 32-33, Karnal.

2. The present FIR came to be registered at the instance of Nishi Shera wife of Satender Shera who stated that on 29.05.2023 she along with her friend Anju Alak wife of Navneet and Shashi Pahwa wife of Satish Pahwa had gone for an evening walk. While they were walking from the side of Sai Baba Temple towards Noor Mahal Chowk, then at about 6.15 pm an unknown car came from behind which was being driven in a rash and negligent manner. The car grazed passed her (complainant) and thereafter struck Anju Alak and Shashi Pahwa from behind. The driver fled away from the spot along with the car. The make and the number of the car could not

be noted down by her. On being admitted to the hospital the doctor declared Anju Alak as brought dead whereas Shashi Pahwa died subsequently. The accident had taken place on account of the rash and negligent driving of an unknown car driver. Legal action was sought.

Initially the FIR was registered under Section 279 and 304-A IPC. Subsequently the statement under Section 161 Cr.PC of Parveen Sachdeva was recorded on 02.06.2023 as per which he had seen the car driver filming a video by taking out his arm from the car. He also stated that it seemed that the driver of the car had intentionally struck the woman. When the car stopped for sometime after the accident, he (Parveen Sachdeva) asked the driver of the car to take the injured women to the hospital for treatment but the driver of the car responded by saying that he (Parveen Sachdeva) ought not to interfere as accidents usually takes place. He (Parveen Sachdeva) had suspected that the driver of the car had consumed liquor. A similar statement was recorded by Dalip Yadav who was stated to be accompanying Parveen Sachdeva at the relevant time.

In consonance with the aforementioned statement, the supplementary statements of the complainant was recorded on 11.06.2023 to the similar effect.

Based on the aforementioned statements, Section 304-A IPC was deleted and Section 304 IPC was added in the present case.

3. The learned counsel for the petitioner contends that a bare perusal of the FIR would reveal that the case was one of accidental death alone. The petitioner could possibly not have had any motive to commit the offence in question. Further there was no evidence to suggest that he had consumed alcohol at the time of occurrence. In fact the statements of the two eye witnesses namely Parveen Sachdeva and Dalip Yadav have been

recorded with an intent to enhance the offence and they were actually not witness to the occurrence. Similarly the supplementary statement of the complainant has been recorded to the similar effect despite her initial version clearly alluding to an accident having taken place. He contends that as the petitioner was in custody since 3.6.2023 and none of the 19 prosecution witnesses had been examined so far, he was entitled to the concession of bail as he was a first time offender with no criminal antecedents.

4. The learned counsel for the State, on the other hand has filed a reply by way of affidavit of Mr. Nayab Singh, DSP, (Traffic), Karnal in court today. The same is taken on record. By referring to the same he contends that though the initial version was one of an accident having taken place, subsequently the offence was enhanced on the basis of the statements of two witnesses and the supplementary statement of the complainant. Therefore, in view of the nature of the allegations the petitioner was not entitled to the grant of bail. He however concedes that petitioner is a first time offender, in custody since 3.6.2023 and none of the 19 prosecution witnesses had been examined so far.

5. The Counsel for the complainant on the other hand contends that she has no objection if the petitioner is granted the concession of bail.

6. I have heard the learned counsel for both the parties at length.

7. Admittedly, the initial version is one of the accident having taken place on the basis of which FIR came to be registered under Section 304-A IPC. It was only later that the offence was enhanced to Section 304 IPC on the basis of the statements of the witnesses and the supplementary statement of the complainant. The evidentiary value of the said statements shall be adjudicated upon during the course of the trial. Admittedly, the petitioner is in custody since 3.6.2023 and none of 19 prosecution witnesses

have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. The petitioner otherwise has clean antecedents. In this view of the matter his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Amit Kumar** son of Sh. Ashok Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 12, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>