



CRM-M-3108-20241

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-3108-2024

Date of decision : August 05, 2024

Rajneesh Kumar

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. LM Gulati, Advocate, for the petitioner
Mr. Pardeep Bajaj, DAG, Punjab

KULDEEP TIWARI,J. (ORAL)

1. Through the instant petition filed under Section 439 Cr.P.C. the petitioner prays for grant of regular bail in case FIR No.0062 dated 26.07.2023, under Sections 323,341,506,148,149 IPC, later on added Section 307 IPC, registered at Police Station Dhakoli, District SAS Nagar, Mohali.
2. The allegations against the present petitioner are that he along with his brother Ravi, and some unknown persons has caused injuries to the complainant, and his father with iron pipes. The relevant extract of the FIR, which reflects the attribution reads as under:-

“Then Rajneesh called 3/4 more boys on the spot which are not known to me, but if they are brought in front of me I can

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identify them. They all surrounded us and Rajneesh and Ravi and one more unknown boy hit us with iron water pipes. Rajneesh hit me with that iron pipe on my forehead and Rajneesh and Ravi along with unknown boys hit me on my shoulder and my brother Vijay Kumar was hit on his right hand and my father also got injured on his head and we also sustained bodily injuries with those iron water pipes. Rest of the unknown accused beat us with kicks and fist blows. Mother of Rajneesh gave injury with Belan (used for making Chapati) and his sister Archana beat us with the Tawa and also threatening us with life. Our mother Mamta and other passer byes rescued us from them and due to multiple injuries sustained by us, xx xx”

3. As per the allegations, the present petitioner, has also caused injuries to Raju, father of the complainant by iron pipe, which were subsequently declared as dangerous to life. The petitioner was arrested on dated 17.8.2023.

4. Learned counsel for the petitioner submits that the petitioner has suffered sufficient incarceration i.e. more than 11 months as on today. The trial has not commenced yet, as no prosecution witness has been examined. He further submits that the petitioner has clean antecedents. He also submits that in the instant FIR, five persons have been arrayed as an accused, and out of these 5 accused, three persons were granted the

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concession of anticipatory bail, and Ravi has been extended the relief of regular bail.

5. Earlier on 1.4.2024, when the matter was heard on merits, the learned State counsel, on instructions imparted to him by the Investigating Officer, informed this Court that in fact Raju i.e. father of the complainant to whom the petitioner has caused head injury, is stated to be died, due to injuries suffered by him, and he sought time to file an appropriate reply disclosing therein, the supervening events. Accordingly, the reply dated 26.7.2024, by way of affidavit of Sh. Manpreet Singh, PPS, Superintendent of Police (Rural), District S.A.S. Nagar, Mohali was filed. The perusal of the reply (*supra*), reflects that the injured Raju, in fact, has died because of Myocardial Infarction (heart attack). The relevant extract of the reply reads as under:-

“That victim Raju, was discharged from PGI Chandigarh on 06.08.2023 after treatment, and on 07.08.2023, he was admitted to District Civil Hospital Panchkula for further treatment. Thereafter, Raju passed away on 29-02-2024 during treatment. His two viscera were sent for examination to Chemical Examiner Kharar and Doctor Bheem Rao Ambedkar Medical College Phase-06, Mohali. The viscera report has been received. Subsequently, a report/medical opinion was also obtained regarding the cause of death of victim Raju. The doctor's report stated: "Final opinion for PMR No 85/HPK/DB/29.02.2024 Named Mr Raju S/O Olasi 48y R/O # 10 Kali Mata mandir Peer Muchhalla Dhakoli. As per chemical Analysis Report no 1865 Dated 08/05/2024

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which shows NO POISON detected in exhibits I, II, II, IV, V, As per Histopathology Report Received and report no PM.NO-PM-36/24 AIMS/PATH/24/174 which shows Heart - RCA, LCA, LAD, Aorta shows Atherosclerotic Patch/Palque with LAD Section shows >70.% acclusion and Portion of lung shows Bronchopneumonia. In view of Histopathology Report. The final cause of death is MI. (MYOCARDIAL INFARCTION). The true typed copy of the medical opinion is attached herewith as Annexure R-1 for the kind consideration of this Hon'ble Court. That thereafter, specifically query was put to the Medical Officer to inform as to whether the cause of death of victim Rajui.e., MYOCARDIAL INFARCTION, was due to injuries sustained by him. In this regard, the Medical Officer, CH, Derabassi opined that, "...After receiving chemical analysis and histopathology report, in the Board's opinion, the cause of death is Myocardial Infarction, which is sufficient to cause death in the ordinary course of nature... "The true typed copy of the medical opinion is attached herewith as Annexure R-2 for the kind consideration of this Hon'ble Court."

6. Custody certificate has also been filed by the learned State counsel, which is taken on record.

7. This Court has put a specific query to the learned State counsel, as to whether, there is any connection with the injury suffered by the deceased Raju, at the hands of petitioner, and the reason of his death. By referring to the reply, it is pointed out that, in fact, Raju has died because of a heart attack, and he further submits, on instructions imparted to him by HC Harnek Singh, that they are not intending to invoke the penal

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provisions of Section 302 IPC, in the present FIR. He also informed this Court that investigation in the instant FIR is complete, and final report after investigation, has already been presented on dated 7.10.2023, and charges have been framed on dated 2.3.2024, and out of total 19 witnesses cited by the prosecution, none has been examined till date.

8. In view of the above recorded factual aspects, this Court is of the opinion that the instant petition deserves to be allowed, for the reasons hereinafter extracted:-

(i)The petitioner has suffered sufficient incarceration of more than 11 months, and 15 days as on today, and trial is yet to commence;

(ii)Though, specific injury is attributed to the present petitioner, i.e. causing head injury to Raju, who has subsequently died , however, there is no connection between the injury caused by the present petitioner, and cause of death, as mentioned by the prosecution;

(iii)All other accused have been released, either on anticipatory bail, or on regular bail;

(iv)Lastly, considering the period of incarceration, and stage of trial, that is yet to commence;

9. Accordingly, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds



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to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

August 05, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No