

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-5196-2024

Date of decision : 01.02.2024

NEERAJ SAINI

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Harsh Chopra, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This is second petition filed under Section 438 Cr.P.C. on behalf of the petitioner seeking pre-arrest bail in case FIR No.98 dated 14.05.2022 registered for the offence punishable under Section 304 IPC (Section 302 IPC deleted lateron), at Police Station Moti Nagar, District Police Commissionerate Ludhiana.

2. Mr. Shobit Oberoi, Advocate and Ms. Parveen Kaur, Advocate appear and file their power of attorneys on behalf of respondents No.2 and 3, respectively today in Court. Same are taken on record.

3. The earlier petition seeking pre-arrest bail was withdrawn without there being any liberty to file a fresh one.

4. On being asked as to how the present petition is maintainable, counsel for the petitioner submits that the complainant has no objection to the pre-arrest bail being granted to the petitioner.

5. The plea is totally misconceived. Concession accorded by the complainant cannot be considered as circumstance to allow the petitioner to maintain second petition under Section 438 of the Code.
6. Thus, at this juncture the concession given by the complainant or the family of the deceased has no pertinence. The Court has to go by the allegations and the mode & manner in which the offence has been committed.
7. In view of above, this Court finds that the present petition is not maintainable and the same is thus dismissed.

February 01, 2024
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No