



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

CRM-M-16892-2024

Date of decision : 24.07.2024

Amit

.....Petitioner

versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Raman Kumar Ambavta, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court by way of present petition praying for grant of regular bail in case FIR No.124 dated 12.07.2023, under Sections 279, 304-A of IPC (challan submitted under Section 304 IPC and Section 196 Motor Vehicle Act, 1988), registered at Police Station Bahuakbarpur, District Rohtak.

Succinctly, facts of the case are that Parveen son of Mahabir Singh made a statement before the police wherein it was alleged that on 12.07.2023, he got the information that his brother Jaideep and Narinder have met with an accident near Rampal Ashram, Village Singhpura. On reaching the place, he found that both his brother and cousin were injured. They were taken to PGI, Rohtak where they were declared brought dead. Request was made to take legal action against the culprits. On the basis of the complaint, FIR was registered under Sections 279, 304-A IPC. The driver of the offending vehicle i.e. the petitioner was arrested on 19.07.2023. The investigation was completed however, the investigating agency filed the challan under Section 304 IPC whereas, the FIR was registered for the offence under Section 304-A IPC. Petitioner approached the Court of learned



Sessions Judge, Rohtak praying for grant of regular bail. However, after hearing both the parties, learned Sessions Judge, declined the same vide her order dated 27.03.2024. Hence, being aggrieved, petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner submits that though there are two deaths in the accident however, the FIR was registered for the offence under Section 304-A IPC. She submits that it was an accidental case in which unfortunately, two deaths have taken place. However, there was no offence on the part of the petitioner but despite that the investigating agency have not filed the challan for the offence under Section 304-A IPC. It is submitted that from the facts and circumstances of the case, no offence under Section 304 IPC is made out whereas, the offence under Sections 279, 304-A IPC are debatable. She submits that petitioner is behind bars from the date of his arrest and as on date, he has completed 01 year of custody. She submits that in another FIR for the same offence, challan has been filed in the similar way for the offence under Section 304 IPC where this Court had granted the bail to the petitioner vide order dated 11.03.2024. It is further submitted that the investigation is complete and charges are framed however, the prosecution has not examined any witness till date. She submits that in the overall facts and circumstances of the case, petitioner deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Amit, submits that on the same date, petitioner has caused two deaths. He submits that in both the accidents, deaths have taken place. He submits that the intention on the part of the petitioner is *prima facie* established and thus, the investigating agencies have rightly filed the challan for the offence under Section 304 IPC. However, he fairly submits that petitioner in another FIR

has been granted bail by this Court vide order dated 11.03.2024. He submits that the charges are framed however, out of 18 prosecution witnesses, none has been examined.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the petitioner was booked in the FIR for the offence under Sections 279, 304-A IPC however, challan has been presented under Section 304 IPC. Whether the petitioner has *mens rea*, would be a subject matter of the trial and thus, lies within the domain of the trial Court. Admittedly, petitioner has been granted bail by this Court in another FIR where the challan was filed for the offence under Section 304 IPC. Petitioner is behind bars from last more than 01 year.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

24.07.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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