



CRM-M-26137-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-26137-2024

Date of decision: 16th September, 2024

Vikas

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Balkar Singh, Advocate for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Divij Datt, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed by the petitioner seeking benefit of regular bail in case arising out of FIR No. 219 dated 29.08.2023 registered under Section 302 read with Section 34 of IPC, 1860 at Police Station DLF Phase-I, District Gurugram (Section 302 was deleted and Section 304(II) was added later on).

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 29.08.2023, an information had been received from Safdarjung Hospital, Delhi at the Police Station that one Sonu had died due to drowning in the swimming pool at a farm house in village Baliyawas. On receipt of this information, a police party reached at the scene of crime,



wherein the complainant Vijender Singh, father of the victim Sonu submitted a written complaint alleging therein that on the previous day i.e. 28.08.2023 at about 3:00 PM, the petitioner along with other three youths of his village namely Sahil, Gaurav and Vipin had taken his elder son Sonu along with them on some vehicles. On the same night, he came to know that his son was admitted in Safdarjung Hospital, Delhi. On reaching there, they found him to be on ventilator. He came to know that his son along with the petitioner and co-accused had gone to a swimming pool at farm house, village Bilyawas, wherein they had consumed liquor. The petitioner and other boys had pushed his son in the swimming pool as a result of which he had died due to drowning. After registration of FIR, investigation proceedings were initiated. During investigation, offence under Section 302 of IPC was deleted and offence under Section 304(II) of IPC was added. It was also revealed that the present petitioner had pushed the victim into the pool and then had gone to ease himself without paying attention that the victim was drowning. The petitioner was arrested on 19.12.2023. The remaining three youths were joined into investigation but were found to be innocent. Offence under Section 34 of IPC was deleted. The investigation has since been completed. The petitioner is facing trial for commission of offence punishable under Section 304 (II) of IPC. He had moved an application for grant of regular bail before the Court of learned Additional Sessions Judge, Gurugram, which has been dismissed vide order dated 03.04.2024.



3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Infact, he along with the deceased and others had gone to the village Baliyawas swimming pool, where he used to visit earlier also. All of them had consumed liquor. It was a case of accidental death because deceased was under the influence of liquor. He knew swimming very well. There was no motive or enmity between the deceased and the petitioner. The deceased was his real cousin brother and relations between them were cordial. His custodial interrogation is no more required. Trial is likely to take time as none out of the thirty-two witnesses has been examined so far. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued in terms of status report that there are serious allegations against the petitioner. There are chances of his intimidating the witnesses or absconding, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner is alleged to have pushed/thrown the victim into a pool wherein he along with some other youths had gone on the fateful day. The victim is proved to have died due to drowning. As per the allegations, he had thrown the victim into the pool with the knowledge that his act was



likely to cause the death of the victim but without any intention to cause his death or to cause such bodily injury as was likely to cause death. Both of them were admittedly under the influence of liquor at that time. The petitioner is in custody since 19.12.2023. Investigation has since been completed. Trial is likely to take time as so far not even a single witness has been examined. Though the petitioner was initially booked under Section 302 of IPC, however, he has been charge sheeted only under Section 304(ii) of IPC. The FSL report also reveals that the deceased was found under the influence of liquor. A pen drive containing the CCTV footage of the camera installed at the place of occurrence has been annexed with this petition. The said CCTV footage has been seen by this Court which shows the petitioner pushing the victim in the swimming pool while being present at the side of swimming pool. The victim is seen in an inebriated state and is shown to be moving unsteadily/staggering towards one corner of the swimming pool from where he was pushed by the petitioner therein. On the face of the record as reflected from the CCTV footage, it does not appear to be a case of pushing the victim into swimming pool by the petitioner with the intention that his act was likely to cause death of the victim. Keeping in view the period of incarceration of the petitioner, the nature of the allegations levelled against him, the fact that it does not appear that the petitioner had intentionally caused the death of the victim, coupled with the fact that the trial is likely to take time, this Court is of the considered opinion that no useful purpose would be served by keeping him in custody any more.



Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate concerned.

7. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th September, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |