

2024:PHHC:165623



220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26142-2024
Date of Decision: 11.12.2024

Vijay Kumar Sahni ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Fateh Saini, Advocate for the petitioner.

Ms. Avneet, AAG, Punjab.

KULDEEP TIWARI, J. (ORAL)

1. The petitioner, who was arrested in the instant case on 14.11.2023, has filed the instant petition, as cast under Section 439 Cr.PC for seeking the relief of regular bail in case FIR No.162 dated 14.11.2023 under Sections 304/279/427 of IPC, 1860 registered at Police Station Lalru, District SAS Nagar, Mohali.

2. The allegations against the petitioner are that he was driving his truck under the influence of alcohol and thereupon, caused accident, which resulted in the death of two persons (including one minor). The relevant extract of the FIR reads as under:-

“That on 14.11.2023, complainant alongwith his brother Gurwinder Singh on his motor cycle was going to meet his brother in law from Budanpur to Lalru. On the back seat of his motor cycle bearing no. Pb70H-1022, his wife Simranjit Kaur was sitting with his 2-1/2 year son Honey Singh and ahead of him, his brother Gurwinder Singh was going on his motor cycle

bearing no. PB-65AA-3835 alongwith his father-in-law Harpal Singh. When they crossed T. point Lehli, Chandigarh-Ambala road at about 10:05 A.M, tipper being driven in rash and negligent manner by its driver, hit his motor cycle from behind and ran over his wife and son and thereafter, tipper was hitted against motor cycle of his brother from behind. In spite of injuries received by him, he went to his wife and son and found them dead and his father-in-law had received grievous injuries. The tipper was stopped by the people gathered there and driver of the said tipper was in drunken condition who told his name as Vijay Sahni son of Raj Dev. He noted down the number of tipper as HR-63E-3146. Then an ambulance of toll plaza was called by passersby and then were sent o Civil Hospital, Dera Bassi where the doctors declared his son Honey Singh and wife Simranjeet Kaur as dead. On the basis of said statement of complainant present case was registered against the applicant-accused.”

3. Learned counsel for the petitioner in the asking for the relief (supra), submits that though as per the FSL report, alcohol was found present in the blood sample of the petitioner, however, the extent of the alcohol is not mentioned. He further submits that, whether, the allegations, as alleged in the instant FIR, invite the provisions of Section 304-A or 304 of IPC is a debatable issue which has to be adjudicated by the learned trial Court concerned at an apt stage. However, considering the days of incarceration i.e. more than one year, and the stage of the trial, he made a request for releasing the petitioner on regular bail. He finally submits that by profession, the petitioner is a driver, having 15 years of experience and he is not involved in any other case and infact, he is a first time offender.

4. The prayer made by the learned counsel for the petitioner has been opposed by the learned State counsel. She has filed the custody certificate dated 10.12.2024 *qua* the petitioner today in Court, and submitted that the

petitioner, under the influence of the alcohol, was plying the vehicle, which resulted into the instant occurrence, therefore, provision of Section 304 IPC was aptly invoked by the prosecution agency.

5. This Court has considered the rival submissions made by the learned counsel for the parties concerned and has gone through the entire case file is of the considered view that the instant petition is amenable to be allowed.

6. It is not in dispute that the petitioner is a first offender and has suffered incarceration of about 1 year and 1 month as on today. The issue which has been raised by the learned counsel for the petitioner regarding invoking of Section 304-A IPC, would be the moot question, which has to be adjudicated by the learned trial Court concerned and this Court refrains itself to make any observation especially while deciding the issue of regular bail. However, considering the fact that no prosecution witness has been examined, despite the charges have been framed on dated 29.07.2024, whereas, 16 prosecution witnesses have been cited in the final report and the days of incarceration, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

7. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. 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.

11.12.2024
Ajay-1/Parveen kumar

(KULDEEP TIWARI)
JUDGE

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