

CRM-M-36085-2023

2024:PHHC:016582

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-36085-2023

Date of Decision : February 07, 2024

RAJANPREET SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

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

Mr. Digvijay Nagpal, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.0175 dated 3.6.2023, under Section 304 IPC, registered at P.S. Dera Bassi, District SAS Nagar.

2. It is a case of unfortunate incident, where as per allegations, the son of the complainant, who died at the age of 8 years, due to the rash and negligent driving of the present petitioner. The instant FIR was registered on a statement recorded by one Pankaj Kumar, son of Shankar Kumar, with the allegations that on 3.6.2023, at about 3.00 p.m., the petitioner while driving a tipper truck rashly and negligently, hit the son of the complainant as well as the main gate of a house, which proved to be fatal for the son of the complainant.

3. The learned counsel for the petitioner, in order to support his

contention, submits that the contents of the FIR, does not fulfill the ingredients of Section 304 IPC, rather it is a case of roadside accident and the petitioner could only be tried under Section 304-A IPC. He further submits that the veracity of the allegations, that the petitioner was in fact driving rashly and negligently, is yet to be established by the prosecution, by leading cogent evidence before the learned trial Court concerned. He further submits that the petitioner has already suffered incarceration of more than 8 months, in the instant FIR. Learned counsel for the petitioner also made an oral submissions that the petitioner is a driver by profession and he is driving the vehicles since last many years, however, there is no criminal antecedents, or any allegations, that he is also involved in any such or similar act, therefore, at the most the instant incident can be considered as sheer result of roadside accident and no '*mens rea*' can be attributed to the present petitioner.

4. On the other hand, the learned State counsel has vociferously opposed the grant of regular bail to the petitioner, on the ground that a young boy of 8 years had lost his life due to sheer rash and negligent act of the present petitioner. He further submits that the long incarceration of the petitioner could not be a sole ground for releasing him on bail. He also filed the custody certificate, which is taken on record. The custody certificate make revelations that the petitioner has suffered incarceration of about 8 months and 8 days as on today and he is not involved in any other criminal case. He further informs this Court on instructions imparted to him by the official concerned that the final report was filed

way back on 25.7.2023 and the charges are yet to be framed and the prosecution has cited a total of 13 witnesses.

5. The issue whether the offence punishable under Section 304 IPC, or 304-A IPC is made out or not is to be adjudicated by the learned trial Court concerned and this Court refrains itself to make any observations on this issue. Further, this Court considering the fact that the petitioner is not involved in any other criminal case and has already suffered incarceration for about 8 months and 8 days as on today and the trial is yet to commence, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

6. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

February 07, 2024
ajay-1

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No