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

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Date of Decision : July 31, 2024

SONU ALIAS SONU KUMAR

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 482 of the B.N.S.S., 2023, the petitioner seeks the concession of anticipatory bail, in case FIR No.244 dated 26.06.2024, under Sections 302, 326 of the IPC, registered at P.S. Sadar Ballabgarh, District Faridabad.

2. Succinctly stated, the genesis of the present FIR is embodied in a complaint made by one Lala Ram (hereinafter referred to as the 'complainant'), wherein, he alleged that one Sonu gave blows of broken glass bottle in the stomach and chest of his son Jitender (hereinafter referred to as the 'deceased'), who consequently succumbed to his injuries. The relevant extract of complainant's statement, as narrated in paragraph No.2 of the order dated 20.07.2024, whereby, petitioner's anticipatory bail application has been dismissed by the learned Additional Sessions Judge, Faridabad, is reproduced hereunder:-



“....FIR of the present case was registered on the complaint of Lala Ram son of Babu Lal, on the allegations that he had five children, two sons and three daughters. His elder son Jitender aged 23 years used to ply Autorickshaw and was residing in a rented room at Tigaon. He used to come at home after 10-15 days as he was unmarried. On 26.6.2024 at about 10:00 hours, he received a phone call from his relative that Jitender had a quarrel with someone and was admitted in Prayag Hospital, NIT Faridabad. On this information, he reached at Prayag Hospital, NIT Faridabad, his son Jitender told him that last night at about 11:00 PM, he and his friend Sunny were in room, then Sonu who also used to ply Auto of his owner came to his room. A joking fight had taken place between them during conversation and Sonu picked a glass bottle, broke it and gave blows in his stomach and chest. He was admitted in the hospital by Umesh and Sonu. When huge amount for treatment was demanded by the private hospital, then he was taking his son in Govt. Hospital in Delhi but his son succumbed to his injuries on the way...”

3. The learned counsel for the petitioner, in his asking for the relief (supra), submits that it is a case of mistaken identity, inasmuch as, two persons having a common name Sonu have been cited in the FIR, out of whom, one Sonu is cited to be the saviour and another Sonu is cited to be the assailant. In fact, the petitioner was the savior and not the assailant, who caused injuries to the deceased. It was the petitioner, who along with one Umesh, got admitted the deceased in Sarvodaya Hospital and this fact is quite evident from the CCTV Footage of the hospital concerned.

4. The learned counsel for the petitioner further submits that petitioner's wife has made numerous representations before the police, thus requesting to conduct investigation in a fair and impartial manner and also to obtain the CCTV Footage of the hospital concerned, however, the same

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remain inactioned.

5. Finally, the learned counsel for the petitioner submits that, in the reply filed by police before the learned trial Court concerned, the details of petitioner's MLR, as prepared by the Sarvodaya Hospital, was not mentioned at the first instance, however, in the subsequently filed police reply, the factum of petitioner's admission in the Sarvodaya Hospital was mentioned.

6. This Court has heard the submissions made by the learned counsel for the petitioner and perused the record.

7. A studied survey of the record available before this Court reveals that, when the deceased was in a conscious state, he suffered a dying declaration before his father to the effect that, one Sonu caused injuries in his stomach and chest with a broken glass bottle. What further surges forth from the record, is that, one Umesh and Sonu, who were deceased's neighbours, took the deceased to the hospital concerned and got him admitted there for treatment.

8. The learned counsel for the petitioner wants to take benefit of the identity of one Sonu, who along with one Umesh had, consequent upon injuries being suffered by the deceased, got him admitted in the hospital concerned. However, it is not under dispute, rather is apparent from the FIR itself that, the petitioner (*prima facie* assailant) was also having acquaintance with the deceased, inasmuch as, they both used to ply the auto-rickshaws owned by a common owner. Therefore, at this stage, nothing can be commented regarding the identities of the saviour and the assailant.

However, even if for the sake of argument, it is considered that the

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petitioner also accompanied the deceased to the hospital concerned, after injuries becoming suffered by the latter, yet *prima facie* it is not a concrete ground to absolve the petitioner from the present offence.

9. Insofar as collection/non-collection of petitioner's MLR from Sarvodaya Hospital at the first instance is concerned, *prima facie* the same also does not constitute any valid ground for absolving the petitioner from his ghastly act.

10. Therefore, considering the gravity of the offence, besides the evidence available against the petitioner, which includes deceased's dying declaration, this Court is not inclined to grant the extraordinary relief of anticipatory bail to the petitioner. Consequently, the instant petition is **dismissed**.

11. 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.

July 31, 2024
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(KULDEEP TIWARI)
JUDGE

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