



In The High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-40223-2024 (O&M)
Date of Decision:- 23.08.2024

Vinay Gupta ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.S.Ahluwalia, Advocate, for the petitioner.
Mr. Neeraj Sheoran, DAG, Haryana.

FIR NO.	DATE	POLICE STATION	OFFENCES
151	17.02.2024	City Yamuna Nagar, District Yamunanagar	302, 323, 34 IPC

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking grant of regular bail in respect of aforementioned FIR.
2. The FIR was lodged at the instance of petitioner’s daughter-in-law Sarita. As per the case of prosecution petitioner’s son was married to



the complainant in the year 2017. However, the matrimonial relations were strained and consequently the complainant lodged FIR No.225, dated 6.12.2023, Police Station Jind, District Jind, under Sections 323, 34, 376, 406, 498-A, 506 and 511 IPC against her husband and other members of the family. As per the instant FIR, the petitioner along with his son (complainant's husband) had gone to the house of a family friend of the complainant so as to have a meeting with the complainant and other members of her family on 15.2.2024. However, during the course of the said meeting the petitioner and his son are alleged to have given beatings to the complainant and her father. The relevant extract from the FIR is reproduced herein under:

“That on 15.02.2024 in the evening at around 5:00 P.M. Nitin Garg and Sri Kant had come to one of our known's house where I was staying along with my father, which is situated in Yamuna Nagar. At around 5:30 P.M. Vinay Gupta had reached there in the meeting. The in-laws party had adopted angry attitude during the conversation and they had started abusing and misbehaving with my father Om Parkash. While seeing Sri Kant, while being aggressive, had pushed my father with force and had thrown him down and had started hitting on his chest and stomach with legs and my father in law Vinay Gupta also had been hitting on my father's stomach and chest with force. In the meantime I had tried to save my father. On which Sri Kant had also started beating me badly. My father had been screaming in pain and had been shouting 'bachao...bachao' but Sri Kant and Vinay Gupta had been continuously beating cruelly. They had been badly beating him with the intention to kill him.”



3. Learned counsel for the petitioner submits that a false FIR has been lodged against the petitioner and that a perusal of the MLR and also the post mortem report shows that no external injury was found on the person/dead body of the deceased and in fact it is a case where the deceased himself was suffering from various ailments and was diabetic. Learned counsel in this regard has drawn the attention of this Court to the Bio chemistry report with respect to the deceased (Annexure P-4).
4. Learned counsel submits that while the petitioner is aged about 64 years, the deceased was aged 62 years. It has been submitted that the petitioner himself is having heart ailments and after he was taken into custody in the month of February 2024, he was operated while in custody in the month of March 2024 and two stents were implanted. Learned counsel in order to substantiate his aforesaid submission has referred to the medical record i.e. discharge summery (Annexure P-7). Learned counsel submitted that having regard to the fact that the petitioner was unarmed and even the allegations are to the effect that he had given kick blows and fist blows, it is only at best an offence punishable under Section 323 IPC which would be attracted and not an offence under Section 302 IPC. Learned counsel submits that the petitioner has been behind bars since the last about 6 months and that as on date only 1 PW out of cited 24 PWs has been examined.



5. Opposing the petition, learned State counsel submitted that since the petitioner is specifically named in the FIR and it is specifically alleged that he had given fist blows and kick blows repeatedly till his death, his complicity is clearly evident. Learned counsel submits that even for the sake of arguments it is held that Section 302 IPC is not attracted, the facts of the case in any case would attract an offence under Section 304 IPC. Learned State counsel has however not disputed the fact that the petitioner has been behind bars for the last 6 months and that as on date only 1 out of cited 24 PWs has been examined. It has also been informed that the petitioner otherwise is not involved in any other case except another FIR lodged by the same complainant for offences punishable under Sections 323, 34, 376, 406, 498-A, 506 and 511 IPC.
6. This Court has considered the rival submissions addressed before this Court.
7. Considering the manner in which the occurrence has stated to taken place, it will be debatable as to whether the acts of the petitioner would attract an offence under Section 302 IPC or any lesser offence. The occurrence seems to have taken place all of a sudden on account of the matrimonial discord between the petitioner's son and the complainant. The petitioner is aged about 64 years and is having heart ailment and had been recently operated upon. The petitioner in any case has been behind bars for a substantial period of 6 months



and as on date only 1 out of cited 24 PWs has been examined. As such further detention of petitioner would not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

23.08.2024

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(GURVINDER SINGH GILL)
JUDGE

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