

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43497-2024
Reserved on: 13.09.2024
Pronounced on: 17.09.2024

Rajender Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Ashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
44	11.04.2024	City Kanina, District Mahendergarh	109/120-B/279/304/336/337, IPC and Sections 185/192 of the Motor Vehicle Act, 1954 (Section 304, IPC and Section 75 of Juvenile Justice (Care & Protection of Children) Act, 2015 were added subsequently)

1. An octogenarian incarcerated for around five months in the FIR captioned above came before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. Per paragraph 17 of the bail application and the reply/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offences	Police Station
1	207	28.08.2023	406/409, IPC	Kanina
2	23	28.01.2011	323/452/506/34, IPC	Kanina
3	128	09.10.1987	353/186/171-F, IPC & RP Act No.43 of 1951	Kanina
4	311	28.12.1994	148/149/332/353/307/188/427, IPC	Kanina
5	238	06.08.1992	420/467/468/471/120-B, IPC	Kanina

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“4. That the brief facts of the case are that on 11.04.2024, PSI Tapender was present at Police Station, City Kanina where he received an information from Control Room that a school bus has met with an accident near Unhani in which many children were injured and he reached at the spot. On receiving the said information, PSI alongwith fellow employee ASI Satish No. 59/NNL, HC Sunil No. 312/NNL, L/ASI Snehlata No. 156/NUH, L/ASI Suresh No. 623/NNL, EHC Satyanarayan No.733/NNL, EHC Sukhbir No. 813/NNL reached at the spot. Ambulance was informed to arrive at the incident site. Some injured children were sent to the hospital from the incident site by the public and some injured children were sent in an ambulance to the Government Hospital, Kanina. The investigating officer took photos of the incident site with his mobile phone. The accidental bus was shifted to the side from the spot. Control Room, Narnaul and senior officials were informed for police assistance. After that, the investigating officer alongwith his fellow employee, reached at CHC, Kanina and obtained the MLRs of the injured children namely Anuj, Maan and Yashvi (Copy of MLRS of injured Anuj, Maan and Yashvi are enclosed herewith as Annexure R-1 to R-3) respectively and Ruqa Dead of Satyam son of Rakesh resident of Jhadli and Yuvraj son of Sanjay resident of Dhanaunda Jhadli were also received. The information was received from Government Hospital, Mahendergarh that Ricky @ Chiku son of Ravinder resident of Dhanaunda, Anshu son of Sandeep resident of Jhadli, Yakshu son of Sandeep r/o Jhadli and Vansh @ Golu son of Dushyant r/o Dhanaunda have also died there and thereafter the Ruqa Dead of the concerned were obtained from Govt. Hospital, Mahendergarh. The crowd caught Ganeshi Lal Public School bus driver Dharmender son of Vijay Kumar, a resident of Sehlang from the spot and handed him over to the police. The smell of alcohol was coming from his mouth. The medical examination/ alcohol test of driver Dharmender was got conducted at Government Hospital, Mahendergarh, in which Doctor has recorded that Alcohol Smell Present In Breath (Copy of medical report of driver Dharmender is enclosed herewith as Annexure R-4) and the blood sample was taken by the doctor which was handed over to the police was taken into police possession vide recovery memo. The blood sample of driver was sent to R/FSL, Rohtak Sunaria, for analysis vide RC no. 27449320240416416630/65 dated 16.04.2024 but the R/FSL report has not been received so far.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“13. That the name of the petitioner has surfaced in the disclosure statements of co-accused Dharmender (Bus driver), Hoshiyar Singh

(transport in-charge) of school buses) and Depti (Principal) (Annexure R-11 to R-13). It is pertinent to mention here that during the course of investigation, it has been established that the petitioner was Chairmen of Ganeshi Lal Educational Society which is running the school who was actively involved in the activities of the society. Due to lapses on his part to comply with the directions/instructions issued by the authorities time to time to avoid such type of incidents/accidents, the petitioner is directly responsible and liable. The bus was without fitness and insurance etc. The driver was allowed by the management to drive the bus despite the fact of his consuming liquor being brought to the notice of the school management. The petitioner has five other FIRs registered against him under different sections of IPC including Sections 148, 149, 186, 171F, 188, 307, 323, 332, 353, 406, 409, 420, 427, 452, 467, 468, 471, 120B 506 IPC and RP Act No.43 of 1951 registered against him. The petitioner being influential person, if released on bail may tamper with the evidence/witnesses. It is pertinent to mention here that on account of his lapse that the accident took place. Six children died at the spot and 29 others were injured. The petitioner was the chairmen of the society and the management and control of the school administration was under him but the school management did not bother the act and conduct of the bus driver Dharmender as after receiving the information about the drunken driving of the bus by driver Dharmender, the management allowed the driver to drive the bus and resultantly a serious accident occurred wherein six children died at the spot and 29 others were injured.

14. *That the petitioner is the chairmen of Ganeshi Lal Educational Society, Kanina who is involved in a serious case connected with school bus accident wherein six children died and many others (29) got injured. It is pertinent to mention here that accused Rajender Singh i.e. the petitioner is the owner/chairman of the concerned school who was arrested in this case on 17.04.2024 and during interrogation, he suffered disclosure statement (Annexure R-14) wherein he has admitted that the fitness and pollution of concerned bus has already expired and the main documents pertaining to the school were taken out by his son Subhash and he is the only person who can tell about the documents.*

15. *That as per version of the prosecution, accused Dharmender, driver of the bus had been stopped by some person on the way and key of the bus has been snatched from him with a view to stop him driving the bus any further after the fact of driving the bus by its driver after consuming liquor came to their notice. However, the school management threatened him to return the key and allow Dharmender, driver of the bus to take the bus to school. During the course of investigation, it has been established that the bus was more than 10 years old, without permit and fitness and insurance. Apart from the above, instructions with regard to necessary presence of one female teacher and one female helper/didi in the bus on the route has also been flouted. Presence of an adult female is essential before the first student boards the bus at the start of the journey and also till the last student gets off at the end of the journey. Presence of the teacher and female helper/didi would have dissuaded accused/driver Dharmender from consuming the liquor in the bus itself alongwith four other private persons and thus would have prevented and avoided the accident. Illegal omission also amounts to abatement of offence.*

16. *That being the chairmen of the Ganeshi Lal Educational Society, the petitioner was duty to always keep welfare of the child in mind at top priority and to nurture and develop the children in safe and supportive environment with utmost caution and seriousness. The petitioner being Head of the school management cannot be allowed to play the blame game, attribute faults to*

others and evade his fundamental duties/obligations and liabilities which has led to a irreparable loss to the parents individually and to the society as a whole. Hence, keeping in view the totalities of the facts and circumstances of the case as well as nature of allegations and gravity of the offence, it is most respectfully submitted that the petitioner does not deserves concession of bail and the petition of the petitioner deserves to be dismissed.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, per paragraph 15 of the bail petition, the petitioner has been in custody since 17 April 2024. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. Petition allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

17.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.