



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CRM-M-44509-2024
Date of Decision : **October 28, 2024**

SUBHASH CHANDER

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

Mr. Harpal Singh, Advocate
for respondent No.2.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition filed under Section 439 of Cr.P.C. (now under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the petitioner prays for grant of regular bail in case FIR No.56 dated 24.5.2024, Under Section 304 IPC, registered at Police Station Khuian Sarwar, District Fazilka.
2. Status report dated 27.10.2024 by way of an affidavit of Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka as well as custody certificate *qua* the petitioner have been filed by the learned State counsel today in the Court, the same are taken on record.

3. The prosecution agency was set into motion on a complaint made by one Sandeep Singh @ Soni, who stated that the present petitioner pushed his father forcefully due to which he fell down and received head injury and consequently he died during his treatment. On the basis of the above statement, the instant FIR has been registered and the petitioner was arrested on dated 24.5.2024.

4. Learned counsel for the petitioner in the asking for the relief (supra) submits that the only allegation against the present petitioner is that he had forcefully given a push to the father of the complainant and whether such act attracts the provisions of Section 304 IPC is a debatable issue, which is to be adjudicated by the learned trial Court concerned at an apt stage. He further submits that the complainant has suffered affidavit in his favour, wherein he admits that he has got recorded a statement on an account of some misunderstanding and infact his father fell down on the road due to his leg entangled in a hole. He also submits that the petitioner has suffered incarceration of more than 5 months as on today and the trial is at the initial stage.

5. The learned State counsel has vociferously opposed the grant of regular bail to the petitioner and submits that the allegations against the present petitioner are that he gave a forceful push to the father of the complainant and on account of that the father of the petitioner has suffered head injury and the cause of death is due to a head injury, as described by the doctor, who conducted post-mortem of the deceased.

6. Learned counsel for the respondent-complainant admits the factum of affidavit, as sworn by the complainant.

7. This Court has considered the rival submissions made by the learned counsel for the parties concerned and is of the view that the instant petition is amenable to be **allowed** for the reasons extracted hereinafter:-

i) The complainant has suffered an affidavit in favour of the present petitioner to the extent that he got recorded the instant FIR on an account of some misunderstanding, whereas his father fell down on the road due to a pit hole on the road; and

ii) Whether the allegations as levelled in the FIR (supra) would attract the provisions of Section 304 IPC is a debatable issue to be adjudicated by the learned trial Court concerned at an appropriate stage and at this stage, this Court refrains from making any observations in this regard; and iii) The petitioner has suffered incarceration of 5 months and 2 days as on today.

8. In view of the above, 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.

9. 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.

October 28, 2024
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(KULDEEP TIWARI)
JUDGE

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