

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

230

CRM-M-60123-2023 (O&M)
Date of Decision:- 30.04.2024

ROOP SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. B.S. Jaswal, Advocate for
Mr. A.S. Manaise, Advocate for the petitioner.

Mr. Japjot Singh, AAG Punjab.

Mr. Vipin Mahajan, Advocate for the complainant.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under
Section 439 of the Code of Criminal Procedure for grant of regular bail to
the petitioner in the following case:-

FIR No.	Dated	Sections	Police Station
121	08.09.2023	304 IPC; (201 and 471 IPC added later on)	Shri Hargobindpur, Police District Batala, District Gurdaspur

2. It is, *inter alia*, contended by learned counsel for the petitioner
that the petitioner is innocent and has been falsely implicated in the case
being the driver of the bus. He submits that the Police has wrongly
registered the FIR under Section 304 IPC and at most offence under Section

304-A IPC is attracted, which is bailable. He contends that the petitioner is in custody since 08.09.2023 and challan has already been presented in Court. Moreover, it will take sufficient long time for the conclusion of trial and the petitioner, aged 45 years, is having a large family to support and has no criminal antecedents. He thus prayed for grant of regular bail to the petitioner.

3. *Per contra*, learned State counsel submits that due to the negligent driving of the petitioner, a student aged 5 years lost his life, as such, he does not deserve the concession of bail.

4. Mr. Vipin Mahajan, Advocate has put in appearance on behalf of the complainant and has filed his memo of appearance. He has not disputed the factual matrix and has submitted that the complainant has no objection in case the petitioner is granted the concession of bail.

5. Heard.

6. After considering the respective submissions and perusing the record, it transpires that the petitioner was arrested in the instant case on 08.09.2023 being the driver of the bus, on the allegation that when he brought the children from the school, the deceased-child fell down while alighting from the bus, who came under the rear tyre of the bus and died on the spot. It was alleged by the complainant that the occurrence took place due to negligence of the petitioner. Accordingly, the FIR was registered under Section 304 IPC and later on Sections 471 and 201 IPC were added.

7. Admittedly, the petitioner is in custody since 08.09.2023, after the completion of investigation, challan has been presented in Court and is

pending trial. Out of 17 witnesses cited by the prosecution, none has been examined till date and the trial will take sufficient long time to conclude to ascertain the criminal liability, if any, of the petitioner. Moreover, it is debatable as to whether the offence under Section 304 IPC is attracted to the facts of the present case or not. The petitioner is not having any criminal antecedents, therefore, in these circumstances, no purpose would be served by detaining the petitioner in custody any longer, especially when the complainant has no objection for grant of bail to the petitioner.

8. In view of the above, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)
JUDGE

30.04.2024

S.Sharma(syr)

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No