

2024:PHHC:046468

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-63066-2023
Date of Decision: 05.04.2024

Bhagat Singh @ Rinku

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Siddarth, Advocate and
Ms. Savita Tanwar, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

HARSH BUNGER J. (ORAL)

1. This is a second petition filed under Section 439 of the Code of Criminal Procedure on behalf of petitioner (Bhagat Singh @ Rinku) for grant of regular bail in case bearing FIR No.670 dated 19.07.2022, under Sections 302 and 364 of the Indian Penal Code, registered at Police Station Camp, Palwal, Haryana.
2. The first petition (CRM-M-11507-2023) was withdrawn by

learned counsel for the petitioner vide order dated 25.08.2023.

3. In pursuance of an advance notice served upon the State of Haryana, status report by way of affidavit dated 19.03.2024 of Ms. Mamta Kharab, H.P.S., Deputy Superintendent of Police, State Crime, Faridabad has been filed on behalf of State of Haryana, which is already on record.

4. Custody certificate dated 04.04.2024 of the petitioner filed by learned State counsel in Court today is taken on record, subject to all just exceptions.

5. Briefly, the case of prosecution is that on 19.07.2022, police received a telephonic information that Abhishek son of Sh. Bhagat Singh resident of Village Phulwari has died and his dead body is lying in General Hospital, Palwal. On getting the said information, Sub Inspector Sanjay Kumar along with Ct. Anil and Ct. Davender reached at General Hospital, Palwal, whereby complainant Ombir son of Sh. Om Parkash resident of Village Phulwari presented a written complaint before the police, wherein it was stated that on 19.07.2022, when the complainant made a call to his nephew Abhishek in the morning, his phone was attended by some officials of Government Hospital, Palwal, who told the complainant that Abhishek was admitted in Government Hospital, Palwal; and subsequently, the complainant along with his family members reached the hospital, whereby they were told that Abhishek was brought to the hospital in an ambulance at around 2:00 A.M. It was further stated that thereafter many persons from the village reached the hospital and at around 2:30 P.M., Vedpal son of Late Satpal resident of Village Sira met the complainant and his family members and told them that on 18.07.2022, during night when he was going near the liquor vend in Village Kuslipur, he saw that Heera Bhati, Rinku, Kapil @ Jhol and two unidentified persons were quarreling with Abhishek and later on they took Abhishek with them in a car bearing registration

No.DL-3C-AS-4960, whereupon Vedpal thought that the aforesaid persons might be quarreling with Abhishek on some petty issue; however, when he came to know that Abhishek had died then he reached the hospital; and accordingly, the complainant stated that the above accused persons had forcibly taken Abhishek in their car and thereafter they murdered Abhishek.

Accordingly, the present FIR has been registered against the accused persons.

6. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the instant case as he had no concern with the death of Abhishek. It is contended that even as per the status report filed on behalf of the State, petitioner herein is no more an accused and rather in investigation, on the basis of medical opinion as regards the distribution and pattern of injuries, the matter has been considered to be the case of road traffic accident, and therefore, Sections 302 and 364 of Indian Penal Code already stand deleted from the FIR and supplementary challan under Sections 279 and 304-A of Indian Penal Code is in the process to be filed.

Learned counsel for the petitioner states that petitioner is not involved in any other case and he has undergone actual custody in the instant case for a period of one year, eight months and eleven days (as on 04.04.2024). Trial in the case is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court. Accordingly, prayer for grant of regular bail is made.

conceded to the aforesaid factual position as regard to deletion of Sections 302 and 364 of Indian Penal Code and filing of supplementary challan under Sections 279 and 304-A of Indian Penal Code before the trial Court being under process. Relevant paragraphs from the status report are reproduced as under:-

“23. That on 7.3.2024, a board of Doctors was again constituted to make medical opinion regarding the nature of injuries of the deceased Abhishek. The Board of Doctors made its opinion regarding the nature of injuries and as per said medical opinion the distribution and pattern of injuries are consistent with Road Traffic Accident. The said medical opinion is appended below for kind perusal of the Hon’ble Court:-

“After going through the above mentioned documents, the undersigned Board is of opinion that the cause of death in this case is head injury described in PMR and its complications. The distribution and pattern of injuries are consistent with Road Traffic Accident.”

24. That on the basis of the statements of witnesses made during further investigation and also on the basis of medical opinion and verification of facts and other evidence, it has been found to be a case of road side accident and it has not been found to be a case of kidnapping and murder by the name persons. Therefore, sections 302, 364 of IPC have been deleted from the case and sections 279, 304A of IPC have been added. Now supplementary final report under section 173(8) of Cr.P.C. is under process to be filed for the offences under section 279, 304A of IPC.

25. That it is submitted that on the basis of evidence and verifications, the present petitioner is no more an accused under section 364, 302, 34 of IPC.

During investigation, it was found that the present petitioner was driving REXTON-AT car No. DL 3CAS 4960 which met with an accident in which the deceased Abhishek

died of his injuries.”

Furthermore, learned State counsel, while referring to the custody certificate, submits that petitioner has undergone actual custody in the instant case for a period of one year, eight months and eleven days (as on 04.04.2024).

8. I have heard learned counsel for the parties and perused the paper book as well as custody certificate of the petitioner.

9. In the instant case, the petitioner has already undergone actual custody for a period of one year, eight months and eleven days (as on 04.04.2024). As per the status report, offences under Sections 302 and 364 of Indian Penal Code stand already deleted and Sections 279 and 304-A of Indian Penal Code have been added. The filing of supplementary challan under Sections 279 and 304-A of Indian Penal Code is stated to be under process; and the said offences under Sections 279 and 304-A of Indian Penal Code are bailable offences. It is borne out from the status report that in fact the matter is pertaining to a road traffic accident. Accordingly, present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The

petitioner shall also appear before the concerned Police Station/Station

House Officer on every alternate Monday till the conclusion of trial.

10. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

11. The petition is accordingly disposed of.

12. All pending application(s), if any, shall also stand closed.

05.04.2024

sjks/Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No