



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

221

CRM-M-2994-2024 (O&M)
Date of decision: 24.03.2025

Ashif Ali @ Ashiq

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No.214 dated 14.07.2023 registered under Sections 201, 279, 304, 304-A, 337 IPC at Police Station Gohana Sadar, District Sonapat.
2. The brief facts of the case are that on 11.07.2023, the complainant Amit Kumar, who is driver and owner of vehicle bearing registration No.HR 66B-1093, along with several other companions including Sajjan, Parveen, Kapil, Ravinder, Vikas, Uddham, Surender, Nilesh, Dinesh, Karamveer, Namit, Narpat, Anuj, and Anish, traveled to Haridwar to bring the Dak Kavad. On 13.07.2023, while returning with the Dak Kavad, they reached near the government school in Village Chidana on the Rohtak-Panipat road around 2:30 a.m. At that time, an unknown truck driver, driving at a high speed, negligently struck the



rear of the complainant's pickup vehicle and then fled away from the spot. The complainant's companions arranged for an ambulance, and they were taken to B.P.S. Khanpur Kalan for treatment. Upon examination, the doctor declared Praveen, Kapil, and Sajjan dead, while the other injured companions received treatment. Thereafter, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that admittedly the FIR (supra) was registered against unknown person on the allegation that the truck driver, while driving his vehicle in a rash and negligent manner, has hit the pick-up vehicle from behind in which the deceased were travelling. Learned counsel for the petitioner submits that the petitioner is a resident of Jharkhand and he is not known to any of the person travelling in the pick-up vehicle. The alleged accident has taken place at 02:30 AM and there are 11 persons, who have been named as eye-witnesses in the present case and only one of the witness Dinesh has made a statement with regard to invocation of offence under Section 304 IPC, however, there is no corroborative piece of evidence collected by the prosecution to indicate that the offence under Section 304 IPC had taken place. Further the petitioner can be held liable for an offence under Section 304-A IPC would be a debatable issue to be decided during the course of trial as to whether the unfortunate accident had taken place due to negligence of the petitioner or due to negligence of the driver of pick-up vehicle. He also contends that the testimony of



the aforementioned witness Dinesh is contrary to the testimonies of other eye-witnesses cited by the prosecution.

4. Learned counsel for the petitioner further submits that there are total 49 prosecution witnesses cited in the list of witnesses and the case before the learned trial Court is fixed for recording the evidence of the prosecution witnesses and the trial is likely to take long time in conclusion.

5. *Per contra*, learned State counsel has filed custody certificate today in the Court which is taken on record and he opposes the prayer made by learned counsel for the petitioner on the ground that the complicity of the petitioner with regard to an offence under Section 304 IPC has been duly established. The CCTV footage of the area was obtained in which it is clearly seen that the offending oil tanker is following the pick-up vehicle and as per the CCTV footage of toll plaza, the offending oil tanker can be seen in a damaged condition and further after committing the offence, the petitioner has fled away from the spot and 04 persons have died in the alleged accident, however, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars from the last 01 year 07 months and 29 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case



has not made much progress and the case before the learned trial Court is fixed for recording the evidence of the prosecution witnesses.

7. A two Judge Bench of Hon'ble Supreme Court in ***"Satender Kumar Antil vs. CBI"***, (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

8. Further the culpability, if any, would be determined at the time of trial and as such, no useful purpose will be served by further detention of the petitioner-accused. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.



9. In view the discussion above, the present petition is allowed. Accordingly, without commenting upon the merits of the case, the petitioner namely Ashif Ali @ Ashiq is ordered to be released on regular bail during pendency of the trial, on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court/Duty Magistrate.

10. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

24.03.2025
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No