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

CRM-M-3226-2024

Date of decision : 07.05.2025

Naveen @ Jhundhi

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sanjeev Majra, Advocate
for the petitioner.

Mr. Tanuj Sharma, A.A.G., Haryana.

Mr. Vinod Bhardwaj, Advocate and
Mr. Nipun Bhardwaj, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition has been made for grant of regular bail to the petitioner in case FIR No.119 dated 08.08.2023, under Sections 148, 149, 323, 328, 306, 452, 506 of IPC registered at Police Station Titram District Kaithal.

2. Succinctly, the facts of the case are that the FIR in the present case was lodged on the statement of complainant Sonu. It was alleged that on 06.08.2023 at about 8:30 pm, his younger brother Monu and elder brother Sandeep were present in their shop. It was alleged that at that time, Kapil, Rohit @ Budhu, came on a motorcyle and raised *lalkara*. His brother Sandeep though tried to convince them and send them back. However, thereafter, Kapil, Rohit @ Budhu, Kala, Golu, Vikram, Sumit, Amit and Judi (present petitioner) along with 3-4 person came on 4-5 motorcycles. They started beating his brother Sandeep with sticks in their



hand. Sandeep rushed inside the shop and then Kapil, Rohit @ Budhu, Golu, Kala started beating him with sticks inside the shop. He and his brother, Monu, with great difficulty saved his brother from those boys. They escaped from the place of occurrence along with their weapons on their respective motorcycles by threatening them to kill. He and his brother Monu admitted his brother Sandeep in the Government Hospital on the way, his brother Sandeep told them that the boys had put some intoxicant poisonous substance in his mouth. His brother was initially admitted but thereafter he was referred to Kalpana Chawla Hospital, Karnal. It was alleged that all the accused as mentioned had beaten his brother Sandeep and threatened to kill them and they forcibly administered poisonous substance in the mouth of his brother. Hence, request was made to take the legal action against the culprits. The FIR was registered initially for the offence under Sections 148, 149, 323, 328, 452 & 506. However, Sandeep, thereafter died on 13.08.2023 and hence, offence under Section 302 IPC was added in the FIR. The petitioner was arrested on 30.08.2023. He approached the Court of learned Additional Sessions Judge, Kaithal praying for the grant of bail. However, after hearing both the sides and finding no merit, same was declined vide order dated 07.11.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has contended that the petitioner is a young boy of 19 years of age, who has been alleged to be a part of unlawful assembly and had allegedly given injuries along with them. He submits that initially the FIR was registered for the offence under Sections 148, 149, 323, 328, 452 & 506, the offence under Section 302 IPC was added on 13.08.2023 on the death of the brother of the

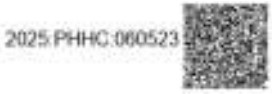


complainant, Sandeep. However, after investigation the challan was also presented for the offence under Section 306 IPC but the learned trial Court had framed the charges for the offence under Section 302 IPC. It is submitted that the complainant has been examined. It is submitted that the petitioner is involved in one more case, however, he has been discharged in the same. He submits that no offence under Section 302 IPC, is made out. Thus, in the facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. Learned counsel for the complainant, on the other hand, however, has opposed the submissions made by learned counsel for the petitioner. It is submitted that in the FIR the complainant had specifically alleged that it was the deceased who on his way to the hospital had informed the complainant that he was forcibly administered the poison. He, thus, submits that this was the dying declaration made by the deceased to his brother Sonu, on whose statement the FIR was registered.

5. Status report by way of affidavit of Mr. Lalit Kumar, HPS, Deputy Superintendent of Police, Kalayat has been filed on behalf of respondent-State, in the Court today, same is taken on record.

6. Learned State counsel also has opposed the submissions made by learned counsel for the petitioner and has drawn the attention of this Court to the status report filed. It is submitted that though the challan was filed for the offence under Section 306 IPC, however, from the attending facts and circumstances of the case, it was *prima facie* proved that the deceased was administered poison by the assailants to which he had succumbed. He, on instructions, has submitted that out of total 24 prosecution witnesses, 01 witness has been examined. He placed on record the custody certificate of the petitioner on record.



7. After hearing counsel for the parties and perusing the record, it is deciphered that the occurrence in the present case has took place on 06.08.2023 whereas the deceased succumbed to the injuries on 13.08.2023. The challan was presented for the offence under Section 306 IPC but it is the trial Court who has framed the charges for the offence under Section 302 IPC. Whether the offence committed is under Section 302 IPC or 306 IPC, is debatable. Custody certificate produced would show that he has already completed an incarceration of 01 year 08 months and 06 days as on 06.05.2025. It further reflects that petitioner is involved in one more case, however, he has been discharged in the said case.

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.05.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

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