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

CRM-M-17976-2024

Date of decision : 28.01.2025

Sandeep**....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Jitendar Dhanda, Advocate,
Mr. Suman Sagar, Advocate & Mr. Raman Kumar, Advocate
for Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Vijesh Sharma, Addl. A.G., Haryana and
Mr. Kirpal Singh Thakur, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.169 dated 14.03.2023, under Sections 323, 34, 506 IPC (Section 302 IPC added lateron), registered at Police Station Azad Nagar Hisar, District Hisar.

2. Succinctly the facts of the case are that the FIR in the present case was registered on the statement of Duko Devi wife of Rishi Dev. It was alleged that on 08.03.2023 at about 3:00 PM, she along with her husband Mukesh went to play Holi. However, an altercation took place there between her husband and Chandan Ram, Sandeep (present petitioner) and Joginder on some issue and all of them gave kicks and fists blows to her husband. They left the place of occurrence by threatening that though he had been spared on that day but in future he would not be.

She shifted her husband Mukesh at Delhi Hospital, Hisar for the



treatment. Request was made to take legal action against the culprits. FIR was registered for the offences under Sections 323, 34, 506 IPC. The husband of the complainant died on 17.03.2023 and at this point, offence under Section 302 IPC was added in the FIR. Postmortem of the dead body was also conducted on the same day. The petitioner was arrested on 21.03.2023. The petitioner approached the Learned Additional Sessions Judge, Hisar praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Additional Sessions Judge, Hisar vide order dated 27.03.2024. Aggrieved by the same, the petitioner approached this Court praying for grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner who is a young boy, has been falsely implicated in the present case. As per the allegations made in the FIR, the petitioner and the co-accused, have allegedly given kicks and fists blows to the deceased. He submits that admittedly it was the occasion of Holi when the alleged occurrence took place. It is submitted that the occurrence took place on 08.03.2023, whereas the FIR was registered on 14.03.2024 i.e. after an unexplained delay of 06 days. He submits that till date the prosecution has not been able to establish how the offence under Section 302 IPC is made out in the present case. It is submitted that no conclusive opinion has been given by the doctors so far on the postmortem regarding the cause of death of the deceased. He submits that as per the allegations, the alleged altercation had taken place with Chandan Ram, Sandeep (petitioner) and Joginder, however, during investigation, simply on the affidavit given by the complainant, both the co-accused i.e. Chandan Ram and Joginder have been declared as innocent and the challan has been presented in a malafide manner against the petitioner only. He submits that the petitioner has no



criminal antecedents and he is behind bars from last about 02 years. However, there is no progress in the trial. He submits that in the facts and circumstances of the case the petitioner deserves to be granted bail.

4. Learned State counsel, on instructions from SI Surinder Kumar, has opposed the submissions made by the counsel for the petitioner and submits that the petitioner is specifically named in the FIR, however, other two co-accused, namely, Chandan Ram and Joginder have been declared innocent on the basis of affidavit filed by the complainant. He submits that the cause of death has not been given by the doctor as the histopathology report is not received till date. He has placed on record the custody certificate of the petitioner.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the occurrence had taken place on 08.03.2023 and the FIR was registered on 14.03.2023 and thereafter the husband of the complainant died on 17.03.2023, and at this point, offence under Section 302 IPC was added in the FIR. The allegations against the petitioner is that he allegedly gave kicks and fists blows to the deceased. Though the cause of death is not ascertained till date as the histopathology report is not received. The custody certificate produced by learned State counsel, shows that the petitioner has suffered an incarceration of 01 year, 10 months and 03 days as on 25.01.2025. It further reflects that the petitioner is not involved in any other case. Needless to say that speedy trial is the fundamental right of every accused. However, till date only charges have been framed and out of total 17 prosecution witnesses, the prosecution has not examined any of the witnesses.

6. The veracity of the allegations would be assessed only after 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 to the petitioner. 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 trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

28.01.2025
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(RAJESH BHARDWAJ)
JUDGE

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