



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM-M-34572-2024
Date of Decision:18.03.2025**

Bhupender

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Ms. Shweta Bawa, Advocate with
Mr. Vikas Saroha, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the second petition under Section 439 Cr.PC with a prayer to grant regular bail to him in case FIR No. 142, dated 26.02.2023, registered under Sections 302,34 of IPC (Section 302 of IPC deleted during investigation and 304 of IPC added later on), Police Station City Ballabgarh, District Faridabad (Haryana).

2. The FIR in the present case was registered on the basis of the statement made by Maya Devi, mother of the deceased and the same has been reproduced below:-

To the Chowki Incharge Chawla Colony, Ballabgarh. It is requested that I Maya Devi W/o Late Shri Siyaram, resident of village Bhatoli police station, Vinawar District, Badaun (Uttar Pradesh), hall tenant, near Ganda Nala Pulia No. 02, Kapashera, New Delhi and I have three sons and two daughters, all of whom are married except Shravan and my husband died about 19 years ago. My son Soran and younger son who used to clean utensils and

do labour in marriages and parties. For about 2-3 months, both my sons used to come to work at Khurana Crockery on behalf of the contractor and my elder son Soran used to take labour along with him from which he got commission and both my sons used to come to work at Khurana Crockery Bhagat Singh Colony, Ballabgarh. On 14.02.2023 and on 25.02.2023 around 5 am in the morning, my son Soran called me from phone number 8448069203 and informed me that contractor Bhupendra and younger brother Shravan beat me up in the night. He has hit me out of a grudge over the transaction of commission money and I have suffered a lot of injuries and I told my sons Shravan and Bhupendra that you should take him for treatment and but they did not get the treatment done and the contractor. We took the auto with my elder son Soran along with my younger son Shravan and sent him to my house in Kapashera, Delhi. When he reached home, Soran's condition was bad and he was not able to speak. For treatment, I and Shravan took him to Safdarjung Hospital, Delhi, where the doctor said after seeing my son Soran, declared him dead, my son Soran died due to the injuries inflicted by the contractor Bhupendra and my younger son Sharwan. Today I have come to Hazari Chowk and given a written application against these people. Legal action should be taken”

3. Learned counsel for the petitioner contends that Soran, since deceased and Sharwan, main accused were real brothers and were drunkards. As per the case set up by the prosecution, the petitioner was a labour contractor and Soran, since deceased as well as Sharwan were employed by him. Learned counsel further contends that even from the disclosure statement suffered by Sharwan (Annexure R-3), it is apparent that the petitioner had allegedly caused simple injuries to Soran, since deceased and even after suffering injuries, Soran had gone to another place and had taken liquor and thereafter, there was a fight

between Soran and Sharwan, main accused. She further contends that in fact, Soran (since deceased) had died due to the injuries suffered at the hands of his own real brother namely Sharwan and the petitioner has been falsely implicated in the present case. Learned counsel has further relied upon the post mortem report (Annexure R-1) to contend that Soran had died only due to suffering of injuries on the neck, which are attributed to Sharwan, main accused. Still further, even during the course of investigation, the police found that it was not a case of murder and rather it was a case of “ culpable homicide not amounting to murder” and the offence under Section 304 of IPC was added in the present case. As per her, the petitioner was arrested in the present case on 28.02.2023 and is in custody for the last more than 02 years and 01 month. Learned counsel further contends that out of total 23 witnesses no witness has been examined so far and Maya Devi, complainant in the present case is not appearing despite her service and is delaying the trial before the Trial Court.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner and his co-accused had caused injuries on the person of Soran (since deceased) and he had died because of the injuries suffered in the said incident. Thus, the case of the petitioner cannot be segregated from Sharwan, main accused and the present petition deserves to be dismissed by this Court.

5. I have heard the learned counsel for the parties and perused the record carefully.

6. In the present case, it is an admitted fact that the petitioner had employed Soran, since deceased as well as Sharwan, main accused and there was no enmity between the parties. Even, it has been alleged that the petitioner

and Sharwan had caused injuries to Soran, deceased; however, he had gone to sleep after suffering injuries. After few hours, Soran went to another place, where he was again caused injuries by Sharwan, main accused. The petitioner is in custody for the last more than 02 years and 01 month and no witness has been examined so far and there are no chances of early conclusion of the trial in the present case.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed

seriously.
(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

8. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

18.03.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

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