

3. Deceased in the present case is Sarita alias Neetu and her son Harshit is an injured. Allegation against petitioner is that from the roof top, petitioner Suresh alias Dalip threw brick, which caused injury to Sarita alias Neetu on her head. As per MLR, Sarita alias Neetu sustained only one injury i.e. lacerated wound on her head and thereafter initially FIR was registered under Sections 148, 149, 323, 325, 506 of IPC. After about 9/10 days, Sarita alias Neetu expired and offence under Section 302 of IPC was added. Thus, counsel argues that infact the arguable issue before the trial Court would be, whether the offence of murder or causing death, not amounting to murder, as alleged by the complainant Rakhi, is made out or not. There is no direct evidence of having any prior grudge to cause murder.

Further argues that looking at the nature of allegations, it also appears that if the offence is proved, learned trial Court will also examine, whether offence is punishable under Section 304 Part-I or Part-II or any other punishable provisions of IPCor BNSS.

4. Both the sides are residing in neighbourhood area and there being no prior incident of fight, counsel submits that already sufficient incarceration for a period of 2 years and 1 month has been suffered by petitioner inside jail. As of now, out of total 26 prosecution witnesses, only 2 witnesses (who are material witnesses), have only been examined. Process of recording of statements of other witnesses is likely to take considerable time and the position of recording of only 2/3 prosecution witnesses is not disputed by learned State counsel. However, he points out that there are other criminal cases also registered against the petitioner.

5. The Court has noticed involvement of the petitioner in other criminal cases also, which infact are concerning the violation of provisions of

Excise Act or Gambling Act and none of the case is in regard to causing of hurt, serious hurt or injury. Rather, careful perusal of other criminal cases would reveal that proceedings in none of the case is pending as of now, except of one at Serial No. 5. For reference, the details of such cases alongwith their status as on date, are mentioned as under :-

Sr. No.	FIR No.	Date	Sections	Police Station	Status as on date
1.	41	3.2.2009	61 of Excise Act	Camp, Palwal	Convicted
2.	476	20.11.2009	13A of Gambling Act	Camp, Palwal	Convicted
3.	50	3.2.2014	13A of Gambling Act	Camp, Palwal	Convicted
4.	389	17.5.2015	13A of Gambling Act	Camp, Palwal	Convicted
5.	290	18.7.2020	12, 9, 55 of Juvenile Justice Act	Badarpur, Delhi	Convicted
6.	406	4.11.2010	13A of Gambling Act	Camp, Palwal	Convicted
7.	222	11.6.2011	13A of Gambling Act	Camp, Palwal	Convicted

6. I have heard learned counsel for the parties and perused the relevant material available on record.

7. On prima facie basis, this Court finds that the petitioner is not an habitual criminal involved as a threatening person to the public in general, disturbing their lives/peace. Undoubtedly, several other cases are there but as it has come before this Court that all such cases are only for violation of provisions of Gambling Act or the Excise Act (1 case).

8. In the present case, the petitioner is not alleged to be armed with any weapon, except of the allegation that with an iron rod, he caused injury on the right foot of Harshit. Meaning thereby, it would be an argument with

accused/petitioner side also that though, petitioner was armed with a rod, causing no injury to deceased by using said rod, would itself reflect that actually there was no intent to cause murder. Thus, taking note of the aforesaid circumstances and also total incarceration period i.e. 2 years and 1 month, this Court finds it appropriate to extend the concession of regular bail to the petitioner.

9. Consequently, prayer made in the instant petition is **allowed**. Petitioner is ordered to released on bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Illaqa Magistrate/Duty Magistrate concerned, if not required in any other case.

10. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

11. The observation made hereinabove shall not be construed as an expression of opinion on the facts of the case and the trial Court is expected to decide the case by taking an independent view, on the basis of evidence available on record, as expeditiously as possible in accordance with law.

12. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

03.09.2025
sjks

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