

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2025:PHHC:027566



(105+216)

CRM-M-15058-2024(O&M)

Date of Decision: 25.02.2025

Naveen

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present:- Mr. P.R. Yadav, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

MANJARI NEHRU KAUL.J (Oral)

CRM-7869-2025

Application is allowed as prayed for.

Annexures P-18 to P-22 are taken on record.

Main Case

The petitioner is seeking the concession of regular bail, filed under Section 439 of Cr.P.C., in case FIR No.226, dated 04.06.2023, under Sections 302, 34 IPC, registered at Police Station, Sadar Narnaul, District Mahendergarh.

Learned counsel for the petitioner, at the very outset, has invited the attention of this Court to the allegations contained in the FIR annexed as Annexure P-1, and has advanced the following submissions:-

(i) The petitioner had no motive to participate in the alleged occurrence and his involvement in the crime is not supported by any direct or cogent evidence.

(ii) As per the case of the prosecution, four persons were initially implicated in the FIR, however, during the course of investigation, three co-accused were placed in column no.II, whereas the petitioner alone was charge sheeted and is now facing trial.

(iii) The medical evidence, particularly the opinion of the doctor, who conducted the post mortem of the deceased, does not conclusively establish that the deceased succumbed to injuries inflicted by the petitioner. The possibility of the deceased sustaining fatal injuries due to a fall on a hard surface has not been ruled out by the doctor.

(iv) Even assuming, without admitting, that the petitioner had any role in the incident, the essential ingredients of Section 302 IPC are not made out. At best the case would fall under Section 304 Part-I or 304 Part-II IPC, thereby warranting a lesser degree of culpability.

(v) The complainant, who is the most material witness, has already been examined before the Trial Court. Further incarceration of the petitioner would serve no useful purpose, especially when two key prosecution witnesses namely Shish Pal and Mir Singh, have been given up by the prosecution, and a third witness, Dharam Pal, has not yet been examined, thereby contributing to the delay in the conclusion of the trial.

(vi) Reliance has been placed upon the two judgements in ***Litta Singh and another Vs. State of Rajasthan, 2013(2) RCR (CrL) 978*** and ***Phulia Tudu and another Vs. The State of Bihar (now Jharkhand), 2007(4) RCR (CrL) 211***, to contend that in cases where there is no premeditation, and the occurrence is sudden, the charge under Section 302 IPC may be altered to Section 304 Part-II IPC.

On being specifically asked whether any challenge has been laid to the framing of charges under Section 302 IPC, which were framed far back on 19.09.2023, learned counsel for the petitioner has replied in the negative. However, he has reiterated that in the cases relied upon, the Hon'ble Supreme Court had modified the conviction from Section 302 IPC to Section 304 Part-II IPC on account of the sudden nature of the occurrence.

Per contra, learned State counsel, has vehemently opposed the prayer and submissions made by the counsel opposite, by reiterating the allegations as set out in the FIR, which reads as follows:-

*“it is submitted that I Sushil Kumar son of Shri Satyabir am resident of village Chindaliya. On dated 03.06.2023 I went to my fields in which liquor shop is opened. At about 8 PM I reached my fields, I heard sound of quarrel from the field in front of the theka, I went there and saw that **Naveen** son of Shri Rajeram resident of Chindaliya beating my uncle Sandeep son of Shri Chotelal resident of Chindaliya. At the spot Shishram son of Shankarram and my father's elder brother (Tau) Dharampal son of Shri Manbhar resident of village Chindaliya were present in the meantime **Naveen's** father Rajeram son of Shri Sheokaran and son of **Naveen's** uncle Dheeraj and nephew of **Naveen** whose name and address is not known also came and then all of the started beating my uncle and therefore due to their beatings Sandeep died on spot. I started taking care of my uncle Sandeep and someone called the police. Police reached at the spot. I am submitting this complaint to you that legal action be taken against **Naveen**, Rajeram, Dheeraj and his sister's son whose name address is not known.*

*Sd/- Sushil, Sushil Kumar son of Shri Satbir village Chindaliya
Mob. 8053734862, Aadhaar No. 628110577790.”*

Learned State counsel has contended that although three of the named persons were placed in column no.II during the investigation, the prosecution's case against the petitioner has remained consistent. The petitioner was specifically named in the FIR by the complainant Sushil Kumar, who is the nephew of the deceased. Importantly, the complainant is an eye witness to the occurrence and was himself assaulted by the accused during the incident.

Further, learned State counsel has drawn the attention of this Court to the post mortem report of the deceased, which reveals four external injuries including a fracture of the occipital bone. It has been contended that the injuries were not confined to a single region but were found on different parts of body including the head, left eye and elbow. It has been asserted that these injuries are consistent with physical assault rather than an accidental fall.

It has also been brought to the notice of this Court that the complainant, whose testimony is annexed as Annexure P-15, has fully supported the case of the prosecution, narrating the entire sequence of events as recorded in the FIR. His testimony also finds prima facie corroboration from the medical evidence.

Regarding the non-examination of witnesses Shish Pal and Mir Singh, learned State counsel has submitted that their testimonies are not material to the case. While Mir Singh was working at the liquor shop, Shish Pal reached the spot only upon hearing the commotion. The case of the prosecution primarily rests on the eye witness account of the complainant and even if these witnesses are not examined, it does not weaken the case of the prosecution. Moreover, only 8 prosecution witnesses remain to be

examined, and therefore the trial is nearing completion.

I have heard learned counsel for the parties and perused the material placed on record.

The case of the prosecution is based on eye witness account. It is a well settled principle of law that in cases where the case of the prosecution is primarily based on the testimony of an eye witness, the absence of motive is not of much significance. Motive, at best lends credence to the occurrence but is not a *sine qua non* for proving culpability.

In the present case, the complainant, who is the sole material witness, was not only present at the time of the alleged occurrence but also intervened to rescue the deceased and suffered injuries himself. His testimony is clear, cogent and consistent with the FIR and medical evidence. In such circumstances, the mere opinion of the doctor that the possibility of the deceased sustaining fatal injuries due to a fall on a hard surface cannot be ruled out, is of no consequence when weighed against the direct testimony of an eye witness. The reliance placed by the learned counsel for the petitioner upon *Litta Singh and Phulia Tudu's* cases (supra), is also misplaced. It is a settled proposition whether an offence falls under Section 302 IPC or a lesser offence under Section 304 Part-I or 304 Part-II IPC is a matter to be determined at trial based on the evidence led. The judgements cited by the counsel for petitioner, therefore, would not come to rescue, at this stage. Furthermore, the contention that two witnesses have been given up by the prosecution does not advance the case of the petitioner. It is well recognized that in a criminal trial, the quality of evidence holds primacy over the quantity of witnesses. The testimony of a single, credible and reliance witness is sufficient to sustain a conviction.

Given the gravity of the offence, role attributed to the petitioner and the factum of the complainant (alleged eye witness) supporting the case of the prosecution coupled with the fact that the trial is at advance stage, this Court finds no justifiable reason to grant to the petitioner the concession of bail.

In view of the facts and circumstances enumerated herein above, the instant petition is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

25.02.2025

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No