
(2003) 09 P&H CK 0124

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 42159-M of 2003

Dr. Monika Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 18-09-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 279, 304, 304A, 427

Citation : (2003) 6 CriminalCC 681 : (2003) 4 RCR(Criminal) 508

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : R.S. Ghai, with Mr. Bipan Ghai, for the Appellant; B.S. Sewak, DAG, Punjab, for the Respondent

Judgement

M.M. Kumar, J.—This is an application filed u/s 438 Cr. P.C. seeking pre-arrest bail in case FIR No. 162 dated 22.8.2003, registered under Sections 304/304-A/279/427 IPC at Police Station Bhawanigarh, Distt. Sangrur, Initially, the case was registered under Sections 304-A/279/427 IPC. However, later on the statement of one Jagseer Singh Ex-Sarpanch of village Phumanwala recorded on 29.8.2003 and the offence u/s 304 IPC has been added because the Ex-Sarpanch has stated that a beer bottle and a Walkman were lying there in the car belonging to the petitioner.

2. Mr. R.S. Ghai, learned counsel for the petitioner states at the bar that he withdraws the averments made in para 4 of the petition. He has further argued that even in Salman Salim Khan's case (Mark "A") the benefit of bail was granted by the Bombay High Court and charge u/s 304 IPC was quashed in Criminal Writ Petition No.2467 of 2003, decided on 3.9.2003. According to the learned counsel the petitioner who is a doctor has also suffered serious injuries. There is no enmity between the petitioner and the deceased.

3. Mr. B.S. Sewak, learned Deputy Advocate General, Punjab has argued that accident was caused because of the reckless driving of the petitioner along with

her friend who were under intoxication after consumption of beer. The learned counsel has also placed reliance on a Division Bench judgment of this Court rendered in Civil Writ Petition No. 1470 of 2000, titled Court on its Own Motion v. State of Punjab, decided on 23.11.2001 wherein the observations have been made that in accident cases Section 304-A IPC alone would not be an appropriate offence where the driver is rash and negligent to his knowledge and he would know that his acts of driving rashly and negligently would cause the death of some road user, then offence u/s 304 IPC might be made out.

4. The question at this stage which requires consideration is as to whether the petitioner who is a doctor by profession, suffered injuries in the accident and is hospitalized, is likely to flee from the trial and influence the prosecution witnesses. In my opinion the petitioner is unlikely to flee from the trial and she has to remain bound by the conditions of this order.

5. Keeping in view the facts and circumstances of the case, I am of the considered opinion that the petitioner deserves to be given the concession of bail. Accordingly, the petition is allowed and it is directed that in the event of arrest of the petitioner in case FIR No. 162 dated 22.8.2003 registered under Sections 304/304-A/279/427 IPC at Police Station Bhawanigarh, she be enlarged on bail to the satisfaction of the Investigating Officer. However, she shall make herself available for interrogation as and when required by the police. She shall not make inducement, threat or promise to any person acquainted with the facts of the case. She shall not leave India without the prior permission of the Court. She shall surrender her driving licence. She shall not drive any automobile unless she is granted permission by the competent authority after her driving test afresh in accordance with law.