

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

**Criminal Misc. No. M-14613 of 2015
Date of decision: 29.10.2015**

Bhagwan Singh @ Motu

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Gaurav Sharma, Advocate
for the petitioner.

Ms. Ritu Punj, Addl. AG, Punjab
for the respondent – State.

Mr. A.S. Brar, Advocate
for the complainant.

Daya Chaudhary, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. on behalf of the petitioner-Bhagwan Singh @ Motu for grant of regular bail in case FIR No.38 dated 15.05.2013, under Sections 302, 449, 201, 148, 149, 120-B of Indian Penal Code and Section 25 of the Arms Act registered at Police Station Tapa, District Barnala.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas he was not named in the FIR. Neither any role has been attributed to the

petitioner nor has caused any injury to the deceased or any other person. Learned counsel further submits that there is no connecting evidence on record to show the involvement of the petitioner in the conspiracy of said offence. The FIR was registered against 5 persons by name and 4-5 unidentified persons. The petitioner is not one of those persons. Learned counsel also submits that the name of the petitioner has been mentioned in the statements of witnesses, namely, Avtar Singh and Baldev Singh, recorded under Section 161 Cr.P.C., who are not the eye-witnesses. Learned counsel also submits that the petitioner is behind the bars since 06.08.2013 and subsequently, an application under Section 319 Cr.P.C. was moved and additional accused have been summoned. It is also the argument of learned counsel for the petitioner that the case of the petitioner is on better footing vis-a-vis co-accused, namely, Jaspal Singh @ Mohna, who has been granted bail by this Court vide order dated 26.02.2015. The charges have not been framed against the persons, who have been summoned under Section 319 Cr.P.C. On the last date of hearing, the case was adjourned but still no witness has been examined.

Learned State counsel has not disputed the custody period but opposes grant of regular bail to the petitioner. It has also not been disputed that the petitioner has been involved in the case only on the basis of statement made under Section 161 Cr.P.C.

Learned counsel for the complainant opposes grant of regular bail to the petitioner on the ground of seriousness of the

offence as there was threat at the hands of accused to the complainant side.

Heard arguments of learned counsel for the parties and have also perused the allegations levelled in the FIR as well as other documents on the file.

Keeping in view the submissions made by learned counsel for the petitioner and also the fact that the petitioner is in custody since 06.08.2013; the trial may take long time as after summoning the accused under Section 319 Cr.P.C., it will be a case of *de novo* trial; no purpose would be served by keeping the petitioner behind the bars; moreover, the complainant and eyewitness have been examined and question of influencing them does not arise and his co-accused- Jaspal Singh @ Mohna has already been released on regular bail by this Court vide order dated 26.02.2015, the present petition is allowed and the petitioner (Bhagwan Singh @ Motu) is directed to be released on regular bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court.

29.10.2015
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(DAYA CHAUDHARY)
JUDGE