

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 106

Criminal Miscellaneous No.M-17500 of 2015 (O & M)

Date of Decision: May 26, 2015

Jasvir Singh @ Kala

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. Vijay Lath, Advocate, for the petitioner.

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Jaspal Singh, J (Oral)

1. This is a petition under Section 438 Cr.P.C. preferred by Jasvir Singh @ Kala, seeking pre-arrest bail, feeling his apprehension of arrest in case FIR No.60 dated June 9, 2014 under Sections 323, 324, 326, 341, 307, 148, 149 IPC, Police Station, Garhshankar, District Hoshiarpur.

2. Learned counsel for the petitioner contends that petitioner was found innocent during investigation and at the time of presentation of challan, he was mentioned in column No.2 of report. Subsequently,

on the basis of an application moved by prosecution under Section 319 Cr.P.C., he alongwith co-accused Naresh Kumar has been summoned to face trial with other co-accused Gurvinder Singh etc.

3. It has further been contended by learned counsel that Naresh Kumar, co-accused, has already been granted the concession of interim bail by this court vide order dated May 4, 2015 (Annexure P-3). Since petitioner has been summoned on the basis of an application under Section 319 Cr.P.C. and investigation is already complete, his custodial interrogation is not required for disposal of trial. Moreover, role attributed to petitioner is only that he, while armed with a sword, inflicted its blow on right leg of Pawan Kumar near ankle. An injury which falls within the purview of Section 307 IPC has been attributed to non-applicant.

4. This Court does not find any ground to exercise discretion under Section 438 Cr.P.C. for the simple reason that such discretion is to be exercised very sparingly and in a case where allegations are found to be false. Here, it would be pertinent to mention that petitioner was not taken into custody by investigating agency at any point of time when alleged investigation was conducted. Though, there were specific allegations against petitioner showing his involvement in the occurrence but no cogent or convincing evidence was produced by the investigating agency while holding him to be innocent. Moreover, as per allegations contained in FIR, petitioner formed an unlawful assembly and in

furtherance thereof, caused injuries to Pawan Kumar and others. Mere fact that petitioner has been summoned under Section 319 Cr.P.C. itself is no ground to enlarge him on bail. Case of co-accused Naresh Kumar can also not be equated with the allegations and role attributed to petitioner.

5. Dismissed.

May 26, 2015
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(Jaspal Singh)
Judge