

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

Crl.Misc.No.M-20910 of 2015(O&M)

Date of Decision : 08.07.2015

Suresh

....Petitioners

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. A.P.S.Deol, Sr. Advocate with
Mr. A.S.Brar, Advocate for the petitioner

Mr. Anmol Malik, AAG, Haryana

Mr. G.P.Singh and
Mr. B.K.Bagri, Advocates for the complainant

MAHESH GROVER, J.

The petitioner prays for grant of regular bail in terms of Section 439 Cr.P.C in case FIR no. 246 dated 30.11.2013 registered under Sections 302/34 IPC at Police Station, Bawal.

The facts as per the FIR are that a dispute erupted over blockade of a drain and petitioner has been attributed an injury with a spear on the lip of the deceased.

Learned counsel for the petitioner with reference to the post mortem report and the testimony of the doctor PW2 contends that the injury caused on the deceased and attributed to the petitioner is on the lip which has been described as superficial by the said doctor while attributing the cause of death to natural causes and ischemic heart disease.

It is stated that the petitioner is in custody since 30.11.2013 and two other co-accused who were not attributed any other injury have been released on bail. It is stated that during the course of trial as many as 10 other persons were also named by the complainant as accused resulting in

summoning under Section 319 Cr.P.C which order was challenged by way of revision petition where notice of motion has been issued and proceedings qua them have been stayed. This has resulted in stalling of the entire trial and the petitioner continues to languish in jail.

Learned State counsel as also the complainant have opposed the prayer for bail by referring to the serious nature of the occurrence and the death of the deceased on account of the injury caused by the petitioner.

After hearing learned counsel for the parties, I am of the considered view that the dispute indicates a trivial issue where the petitioner and the complainant being co-villagers and neighbours were disputing over blockade of a drain. The injury caused by the petitioner though with a spear on the lip of the deceased has been described to be superficial by the doctor who has attributed the cause of death to heart condition of the deceased but affirmatively opined the death on account of natural causes.

Considering the aforesaid facts in their totality and without commenting upon the merits of the case, I would deem it to be a fit case where powers under Section 439 Cr.P.C ought to be exercised in favour of the petitioner considering his period of incarceration, the likely delay in the trial and particularly, the opinion of the doctor. Hence, instant petition is allowed. It is directed that the petitioner be released on bail in terms of Section 439 Cr.P.C . Bail to the satisfaction of learned Trial Court.

Nothing said herein shall be construed to be an expression on the merits of the case.

July 08, 2015
rekha

(Mahesh Grover)
Judge