

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

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**CRM-M-23275 of 2015
Date of Decision:27.07.2015**

Rajesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Yashwinder Singh, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks regular bail in FIR No.554 dated 20.08.2014, under Sections 302, 34 IPC, Police Station Jhajjar, District Jhajjar.

Initially, DDR No.24 dated 17.07.2014 was registered in respect of occurrence dated 16.07.2014. Three persons were injured in the occurrence. At the first instance, no cognizable offence was found to have been involved and hence, no FIR was registered. Injured Mahabir was discharged on 20.07.2014. He was again admitted on 18.08.2014 due to complications. FIR was registered on the statement of Manjeet to the effect that Ramesh and his sons Rakesh and Rajesh attacked Mahabir with jelly, kassi and danda when he objected to cut in water course to divert the flow of water. Uncle of the complainant namely Mahabir and cousin Rakesh when enquired about the controversy then accused gave injury to Mahabir and his cousin Rakesh.

Mahabir died on account of injury in the manner as stated above.

Learned counsel for the petitioner contends that complainant Manjeet, Rakesh and other eye-witness Desh Raj have resiled from their earlier statements. They were cross-examined but nothing incriminating could come on record. Learned counsel further states that injured Mahabir was discharged from hospital on 18.08.2014 and ultimately died on 20.08.2014. Therefore, offence under Section 302 IPC is not made out. He could have been saved, had the medical facility been provided in time or had doctor been vigilant enough to treat him during the course of his stay at home. Learned counsel further states that injury by Rakesh (co-accused) i.e on left forearm which ultimately turned in gangrene and became cause of death.

Petitioner is in custody since 31.08.2014. Learned State counsel on instructions from SI Ramesh Kumar admits factum of material witnesses becoming hostile.

In view of aforesaid, petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate, Jhajjar.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

July 27, 2015
prince