

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

CRM-M-36787-2015 (O&M)

Date of Decision: November 04, 2015

Sarwan Singh Atwal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

- 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?***

Present: Mr.J.S.Dadwal, Advocate
for the petitioner.

Mr.K.S.Pannu, D.A.G.Punjab.

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NARESH KUMAR SANGHI, J.(ORAL)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Sarwan Singh Atwal, son of Sukhdev Singh, resident of House No.1060, Street No.1, Mohalla Manohar Nagar, Police Station, Model Town, Ludhiana, who has been booked for having committed the offences punishable under Sections 148 and 302 read with Section 149, IPC, in a case arising out of FIR No.60, dated 15.04.2013,

registered at Police Station, Model Town, Ludhiana.

Learned counsel contends that as per prosecution case, Bakshish Singh alleged to have died on account of an injury sustained by a brick and thereafter, he fell down on the ground from the first floor; six persons including the petitioner have been booked for causing single blow by brick; no specific injury has been attributed to the petitioner; the applicability of Section 149, IPC, would be a moot point during trial. He further contends that even the applicability of Section 302, IPC, would also be a point to be considered during trial. It has also been pointed out that the petitioner is behind the bars from 24.05.2013 and the prosecution has not been able to lead its entire evidence. He further points out that Jaideep Singh (PW1) and Charanpreet Singh (PW-2) have been produced by the prosecution and there are serious flaws in their depositions. He also contends that further incarceration of the petitioner would not be of worth.

Learned counsel for the State, on instructions from SI Manjeet Singh, Police Station, Model Town, Ludhiana, has not controverted the factual aspects raised by learned counsel for the petitioner. The eye-witnesses have also disclosed the involvement of the petitioner in occurrence.

I have heard learned counsel for the parties and with

their able assistance gone through the material available on record.

Applicability of Section 302 read with Section 149, IPC, would be a moot point during trial. No specific role has been assigned to the petitioner. The petitioner has suffered incarceration for two years and approximately six months and there appears to be no justification for further incarceration of the petitioner. The similar situate co-accused Bhupinder Singh alias Prince and Honey Sahota have been granted bail by this Court.

Keeping in view totality of the facts and circumstances of the case, the present petition is allowed. The petitioner, Sarwan Singh Atwal, son of Sukhdev Singh, resident of House No.1060, Street No.1, Mohalla Manohar Nagar, Police Station, Model Town, Ludhiana, is directed to be released on bail during pendency of the trial of the present case subject to his furnishing bail bond to the satisfaction of learned Chief Judicial Magistrate/ Duty Magistrate, Ludhiana.

The observations made hereinabove are only for the limited purpose of deciding the present case.

November 04, 2015
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(NARESH KUMAR SANGHI)
JUDGE