

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-38436 of 2014
Date of decision : April 09, 2015

SandeepPetitioner
versus

State of HaryanaRespondent

Criminal Misc. No. M-467 of 2015

Mahesh @ MaheshuPetitioner
versus

State of HaryanaRespondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Manvender Chauhan, Advocate for
petitioner Sandeep

Mr. Atul Yadav, Advocate for petitioner Mahesh @ Maheshu

Mr. Munish Sharma, AAG Haryana

Fateh Deep Singh, J. (Oral)

Since both the aforesaid regular bail petitions are arising out of one and the same FIR, the same are being disposed of by this common order.

Petitioner Sandeep (armed with Saria) has filed first regular bail application whereas petitioner Mahesh alias Maheshu (armed with iron pipe) has filed second bail application before this Court.

As per the prosecution allegations, the accused had on 10.7.2013 around 10.00 PM assaulted complainant-deceased Raj Kumar in the area of village Bilaspur, Gurgaon accompanied by their co-accused non-applicants Krishan, Raj Kumar alias Raju and Shishan who were armed with iron rods and dangs leading to his death. It is submitted on behalf of the petitioners that most of the witnesses of the prosecution have resiled at the trial and that the cause of death cannot be attributed to the alleged injuries which are on non-vital parts of the body and neither any of the petitioners were named and there is delay in the registration of the case and which arguments have been controverted forcefully on behalf of the State that this Court through detailed orders dated 21.1.2014 had dismissed the regular bail application of the petitioner-Mahesh @ Maheshu and that it is a question of trial as to the cause of death and the role of the accused.

Most prosecution witnesses as is sought to be concurred by the two sides have resiled is in itself suggestive that if allowed bail, the petitioners would further subvert due process of law. The question of the statement of the deceased prior to his death which apparently falls within the domain of dying declaration has to be adjudged.

No fresh ground has arisen in the case of petitioner Mahesh @ Maheshu for allowing bail. In view of the seriousness of the allegations and that in the light of the recoveries effected and the evidence, does not call for grant of bail. Both the bail applications as such stands dismissed.

April 09, 2015
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(Fateh Deep Singh)
Judge