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

CRM-M-39079-2015 (O&M)

Date of decision: 08.12.2015

Jai Bhagwan

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Bijender Dhankar, Advocate
for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (ORAL)

CRM-39829-2015

Applicant seeks permission to place on record Annexure P-3-post-mortem report and also seeks exemption from filing certified copy thereof.

Application is allowed, as prayed for. Exemption sought is granted. Document is also permitted to be placed on record.

CRM stands disposed of.

CRM-M-39079-2015

Petitioner seeks bail pending trial in FIR No.130 dated 06.10.2014 under Sections 302, 201/34 IPC and Section 25 of Arms Act, registered at Police Station Mohana, District Sonapat.

Learned counsel for the petitioner refers to the relevant part of FIR to contend that although the author of the FIR alleged that the petitioner was armed with khunta (wooden stick) but he did not specify the seat of

injury, allegedly caused by khunta. He also refers to the post-mortem report (Annexure P-3) to contend that there was no injury found on the person of the deceased, which might have been attributed to the petitioner. Learned counsel for the petitioner would next contend that petitioner is inside the jail for the last more than one year and not even one PW has been examined so far, despite the fact that the charges were framed as far back as on 31.01.2015. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from SI Surender Kumar, Police Station Mohana, Sonapat, submits that charges against the petitioner are direct and serious, because of which he is not entitled for bail pending trial, at this stage. He prays for dismissal of the present petition.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, petitioner has been found entitled for bail pending trial. It is so said because a bare perusal of the post-mortem report (Annexure P-3) would show that none of the injuries could have been attributed to the petitioner. This seems to be the reason that the author of the FIR is silent about the seat of injury alleged to the petitioner. In such a situation, it shall be a debatable issue before the learned trial Court, as to whether the petitioner, as a matter of fact, participated in the commission of offence or not. Further, no explanation is forthcoming from the State, as to why even one PW has not been examined so far, despite the fact that charges were framed as far back as on 31.01.2015.

In view of the above and without commenting anything further on merits at this stage, lest it should prejudice the case of either side, instant petition is allowed. Petitioner is directed to be released on bail pending trial on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court. However, learned trial Court is directed to ensure early conclusion of the trial.

Disposed of, accordingly.

[RAMESHWAR SINGH MALIK]
JUDGE

08.12.2015
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