

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

**Criminal Misc. No. M-3986 of 2015
Date of decision: 26.02.2015.**

Jaspal Singh @ Mohna

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mrs. Baljit Mann, Advocate
for the petitioner.

Mr. T.N. Sarup, Addl. AG, Punjab
for the respondent – State.

Daya Chaudhary, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. on behalf of the petitioner-Jaspal Singh @ Mohna for grant of regular bail in case FIR No.38 dated 15.05.2013, under Sections 302, 449, 201, 148, 149 and 120-B of Indian Penal Code and Section 25 of Arms Act registered at Police Station Tappa Mandi, District Barnala.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and no role has been attributed to him. Even as per allegations levelled in the FIR, the petitioner may come in the category of unidentified person. There were total 4-5

unidentified persons, who have been mentioned in the FIR and one of them has been alleged to have given two stick blows, one on the shoulder and another on the right eyebrow of deceased Resham Singh. Learned counsel further submits that even in the supplementary statement, the complainant has not named the present petitioner and no role has been attributed to him. The petitioner is in custody since 09.06.2013 and out of total 46 witnesses, only two have been examined so far. Learned counsel for the petitioner also submits that an application under Section 319 Cr.P.C. has also been moved by the prosecution and trial may take long time to conclude.

Learned State counsel has not disputed the custody period as well as the role of the present petitioner and also the stage of the trial but opposes bail to the petitioner on the ground that in case of offence under Sections 148, 149 IPC, the individual role is not to be seen. Learned State counsel has also filed custody certificate in the Court and the same is taken on record. As per custody certificate, the petitioner is behind the bars for the last more than 1 year and 8 months.

Heard arguments of learned counsel for the petitioner and have also perused the FIR and other documents on the file.

Admittedly, the petitioner was not named in the FIR and no role has been attributed to him. Even in the supplementary statement, the complainant has not named the petitioner. He is presumed to be one of the 4-5 unidentified persons, then also, allegations of giving

stick blows on the shoulder and eyebrow of the deceased have been levelled on him.

Keeping in view the submissions made by learned counsel for the petitioner and also fact that the the petitioner is in custody for the last more than 1 year and 8 months; out of 46 prosecution witnesses, only two have been examined so far; an application under Section 319 Cr.P.C. has been moved by the prosecution and in case, the same is allowed then it will be a case of *de novo* trial; no purpose would be served by keeping the petitioner behind the bars; and moreover, the complainant and eyewitness have been examined and question of influencing them does not arise, the present petition is allowed and the petitioner (Jaspal Singh @ Mohna) is directed to be released on regular bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court.

26.02.2015
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(DAYA CHAUDHARY)
JUDGE