

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

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Crl. Misc. No. M 43305 of 2014
Date of decision: 23.01.2015

Shakunti and another

..... Petitioners

Versus

State of Haryana

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present : Mr. Sanjeev Kumar Panwar, Advocate
for the petitioner

Mr. Rajesh Gaur, Additional A G Haryana

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The petitioners have filed the present petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in FIR No. 383 dated 31.07.2014 for offence punishable under Sections 148, 149, 302, 323, 506 of the Indian Penal Code and Section 3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered in Police Station Camp Palwal, District Palwal, Haryana.

Notice of motion.

Mr. Rajesh Gaur, Additional Advocate General, Haryana has put in appearance on behalf of State of Haryana.

As per the allegations set up in the FIR, lodged at the instance of Radhay Sham, paternal uncle of the deceased, on 31.07.2014 at about 8.30 pm, Harbir son of Shiv Ram, Shiva son of Bhupinder, Shiv Ram son of Het Ram, Gopal son of Het Ram, Aakash son of Gopal, Maikal son of Shiv Ram, Pappa son of name not known, Sanjay son of Kunti Bala, Tarun son of Jeet Ram, Shukanti wife of Shiv Ram, Kamlesh wife of Gopal, Kailash son of Shiv Ram, Kabir of D.J., Surjan's two sons and his nephew were playing D.J music in the corner of Ambedkar Park and creating nuisance. His (complainant) son asked them to play music at low volume. All of them, in connivance with each other while armed with lathi/danda and knife started fighting with his children and caused injuries to his sons Sanjay and Raju. Aakash son of Shiv Ram gave a knife blow on the right side of the chest of Raju son of Sohan Lal. Sanjay son of Shiv Ram, Bhola son of Daya Ram, Ram Kishore son of Sohan Lal all gave beatings. They gave kick and fist blows to Raju son of Sohan Lal. He and his son (Rajan) were rescued by Angori wife of Sohan Lal and others.

Counsel for the petitioners contends that no overt act has been attributed to the petitioners, one of whom is wife of accused Shiv Ram. It is further argued that they have been indicted in the crime being family members or relatives of the accused to whom injuries sustained by Raju have been attributed. As per version of the complainant, the petitioners were present at the spot in connection with music on DJ being played in corner of Ambedkar Park. There is no allegation that there was previous

animosity between the parties and it appears that there was a sudden fight in which Raju sustained injuries. It is further argued that Ram Kishore, brother of deceased Raju alleged to be an injured in the occurrence got recorded his statement and in the said statement, some tooth bites have been attributed to the petitioners having been caused to said Ram Kishore, but no injury with tooth bite has been found in the medico legal report of Ram Kishore.

I have heard counsel for the parties and perused the records.

As per the version given by Radhay Shyam, author of the FIR, the petitioners were statedly present at the place of occurrence prior to start of fight, resulting injuries to Raju. It is also clear from the allegations that as son of the complainant raised an issue with the persons gathered at the spot for decreasing volume of music, the matter flared up resulting in fight. No overt act has been attributed to the petitioners in view of the case set up in the FIR. Ram Kishore, brother of deceased came forward to make a statement after about ten days of the alleged occurrence. In his statement, again he has not attributed any role to the petitioners in regard to causing injuries to Raju which later proved fatal. As per medico legal report of Ram Kishore, no injury as a result of tooth bite was found on his person and he only complained of pain in respect of two places. The petitioners have already been remanded in judicial custody and, therefore, no longer required for the purpose of investigation. The law is more liberal with regard to grant of bail to a woman.

Without meaning to express any opinion on merits of the controversy, bail to petitioners Shakunti and Kamlesh on their furnishing

personal/surety bonds subject to satisfaction of the Illaqua Magistrate/trial Court. However, they shall abide by the following conditions:-

- (i) they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer; and
- (ii) they shall not leave India without the previous permission of the Court.

(Rekha Mittal)
Judge

23.01.2015
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