

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

**Criminal Misc.No.M-4799 of 2015
Date of Decision: February 18, 2015**

Sunil and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Aditya Jain, Advocate,
for the petitioners.

Mr.Kapil Aggarwal, Addl.AG, Haryana.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition is for grant of regular bail to the petitioners, namely, Sunil @ Basanta and Dhanesh @ Kalva, who have been booked for having committed the offences punishable under Sections 285, 307, 323 and 506 read with Section 34, IPC, and Section 25 of the Arms Act, in a case arising out of FIR No.114, dated 10.10.2014, registered at Police Station, Tigaon, District Faridabad.

Learned counsel contends that the petitioners are thickly related with injured, Mintu @ Chatter Pal and informant, Rajbir Singh; Sonu, sister of Dhanesh @ Kalva is wife of Kapil s/o Rajbir Singh; Mintu @ Chatter Pal (injured) is brother-in-law (sala) of Mohit who is younger son of informant, Rajbir; Sonu

and Kapil were not maintaining cordial relations and as such, petitioner No.2 Dhanesh @ Kalva and his cousin Sunil @ Basanta alleged to have caused simple injury by means of firearm on the right thigh of Mintu @ Chatter Pal; the occurrence alleged to have taken place at 7:30 pm on 09.10.2014 which was allegedly witnessed by informant, Rajbir Singh; the matter was reported to the police by way of written complaint but there was no allegation that either of the petitioner was carrying a firearm and caused injury on the person of Mintu @ Chatter Pal; even in the statement of injured, Mintu @ Chatter Pal recorded on 12.10.2014 it was disclosed to the police that one Bunty who was later found to be innocent had fired a shot causing injury on the right thigh of Mintu @ Chatter Pal. He further contends that there is not an iota of evidence to connect the petitioners with the fact that they were carrying firearm and caused injury on the person of Mintu @ Chatter Pal. He also contends that the petitioners are behind the bars from 27.10.2014 and after completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) has already been presented before the court below; after commitment of the case the charges have also been framed and the case is fixed for recording of the prosecution evidence. He further submits that further incarceration of the petitioner is not worth in the present

case.

Learned counsel for the State, on instructions from SI Subhash Chand, Police Station, Tigaon, District Faridabad, very fairly concedes that in the complaint presented immediately after the occurrence before the police by Rajbir Singh, it was not alleged that either of the petitioner had used the firearm for causing injury on the person of Mintu @ Chatter Pal. He further contends that even in the statement recorded under Section 161, Cr.P.C. of Kapil on 12.07.2014 it was stated that one Bunty had caused the firearm injury on the person of Mintu @ Chatter Pal. He further submits that in the statement of Kapil recorded under Section 161, Cr.P.C., on 12.10.2014 it was disclosed that the petitioner Sunil @ Basanta had caused the injury on the person of Mintu @ Chatter Pal by means of firearm. He further contends that the petitioners are neither required nor involved in any other case. He further contends that Mintu @ Chatter Pal had received the simple injury on his right thigh.

I have heard the learned counsel for the parties and with their able assistance gone through the matériel available on record.

The applicability of Section 307, IPC, would be a moot point during the course of trial. After completion of the

investigation, the charge-sheet (report under Section 173, Cr.P.C.) has already been presented before the court. In view of totality of the facts, the present petition is allowed. Petitioners, Sunil @ Basanta s/o Late Bir Singh, r/o Village Badrola, P.S. Tigaon, District Faridabad and Dhanesh @ Kalva, s/o Late Om Parkash, r/o village Akhtyarpur, District Bullandshar, UP, are ordered to be released on bail, during pendency of the trial of the present case, subject to their furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Faridabad.

February 18, 2015
seema

(Naresh Kumar Sanghi)
Judge