

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

**CRM-M No.10953 of 2016 (O&M)
Date of Decision: 26.05.2016**

Yashpal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Tanu Bedi, Advocate for the petitioner.

Mr. Yashwinder Singh, Deputy Advocate General, Haryana
for the respondent/State assisted by ASI Mahanand.

JASWANT SINGH, J. (Oral)

Present petition is for grant of regular bail under Section 439 Cr.P.C. on behalf of the petitioner-accused Yashpal in case FIR No.19 dated 20.01.2015, under Sections 148, 149, 323, 341, 506, 302 of the Indian Penal Code (for short 'IPC'), registered with Police Station Beri, District Jhajjar.

As per the allegations of the complainant-Ranbir Singh, on 18.01.2015 at about 5:00 PM, his nephew-Satish was waylaid near the main gate of the Sports Stadium by the petitioner-accused Yashpal along with his co-accused/non-applicants Nagender, Hoshiar Singh, Ashwani, Sanjit and Ravinder, armed with *Iron Pipes, Saria, Jailly* etc. and given beatings by them. The said Satish suffered 06 injuries (as per MLR) and 19 injuries (as per Post Mortem Report), resulting into his death on the morning of 21.01.2015 at P.G.I.M.S, Rohtak.

The role attributed to the petitioner is of causing a *Jailly* blow and also being a conspirator of the crime in a meeting held one hour before the occurrence at his residence.

It is contended that the petitioner, around 60 years of age has been falsely implicated on account of an earlier fight between deceased-Satish with co-accused/non-applicant Nagender and his friends qua which FIR No.4 dated 05.01.2015 was lodged against Satish under Sections 323, 506, 34, IPC (**Annexure P-3**) by Nagender qua injuries *inter alia* to Amit s/o Yashpal (petitioner/accused). Even the father of the said Nagender i.e. co-accused Hoshiar Singh is named in the FIR, however, has been found innocent by the police. Factually, a quarrel had occurred between two groups of young boys wherein even accused Ashwani received injuries and two fathers i.e. petitioner/accused Yashpal and Hoshiar Singh of two persons (Nagender and Amit) who had earlier lodged an FIR against the deceased-Satish, have been unnecessarily dragged in due to vendetta. It is next contended that vague allegations of causing injury with the *Jailly* have been attributed to the petitioner/accused whereas most of the injuries are contusions except two lacerated wounds suffered on the head, caused by blunt weapons. Thus, the medical evidence does not support the ocular version of causing of injury by a sharp weapon like *Jailly*.

It is further submitted that there is unexplained delay of more than 48 hours in lodging the FIR, and even the eye-witness/complainant, while appearing as PW-4, has not supported the case of the prosecution against the petitioner, who is stated to be in custody since 15.02.2015 and the trial is not likely to be concluded in near future as an application under Section 319 Cr.P.C. for summoning of Hoshiar Singh has been made by the prosecution.

Learned State Counsel, assisted by ASI Mahanand, does not dispute the role attributed, the custody period and the fact that an application under Section 319 Cr.P.C. for summoning of Hoshiar Singh, placed in Column No.2, has been made. He, however, submits that the

question of delay in lodging the FIR and the connectivity of the nature of the injury with the alleged weapon of the petitioner/accused is a matter of trial. It is further submitted that in the light of the heinous nature of offence, the petitioner is not entitled to be released on bail.

Without commenting on the merits of the case, keeping in view the above, especially the custody period and age of the petitioner-accused, and that trial is not likely to be concluded in near future, this Court finds that petitioner/accused deserves the concession of regular bail and as such he is ordered to be released on bail to the satisfaction of CJM/Duty Magistrate concerned.

Disposed of.

May 26, 2016
Gagan

(JASWANT SINGH)
JUDGE