

224-2

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

CRM-M-12614-2016

Date of Decision : 11.05.2016

Rajinder Kumar @ Monu

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Hitesh Kaplish, Advocate
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab.

M.M.S. BEDI, JUDGE (ORAL)

The petitioner has been in custody with effect from 28.04.2013. The FIR had been registered at the instance of Pawan Kumar (now deceased) on 29.03.2013 with the allegation that while the deceased was going on his activa towards his house, he was attacked by three young boys with muffled faces who came on a motorcycle. One of them had attacked the deceased with danda on his head as a result of which he fell down and became unconscious whereas other two boys committed dacoity of his activa, wallet and phone etc.

Name of the petitioner, as an accused, surfaced during the course of investigation. Recovery of handle of pump has been effected from the petitioner.

Learned counsel for the petitioner has vehemently contended that it is a case where there is no eye witness. The petitioner is sought to be tried and convicted on the basis of the circumstantial evidence. Petitioner is not named specifically in the FIR. The petitioner has been involved in the case on the basis of the statement of the

accomplice which statement is not admissible in evidence.

It has also been argued that no witness has been examined after 19.08.2014. This fact could not be controverted by ASI Mukhtiar Singh. The unnecessary delay in adjudication of the case is certainly a matter of concern. The allegations may be serious but unless or until the allegations are established by direct circumstantial evidence, suspicion cannot take the place of proof. Non-examination of any witness with effect from 19.08.2014 requires to be explained, being in contravention to the Article 21 of the Constitution of India which gives a right to the accused for expeditious disposal as well as the provisions of Section 309 Cr.P.C.

One of the co-accused of the petitioner, namely, Ashwani Kumar has been granted concession of bail on the ground of delay in adjudication of the matter. Striking a balance between the rights of the petitioner and the prosecution agency, in the interest of justice, this petition is disposed of with a direction to the trial Court to conclude the trial within a period of four months from the next date of hearing. The trial Court shall give short dates of hearing and will not adjourn the case without any special reason for adjournment. In case, the trial is not concluded within the above said period, the trial Court shall release the petitioner on bail on his furnishing bail bonds/surety bonds to its satisfaction.

(M.M.S. BEDI)
JUDGE

11.05.2016
Neha