

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-1741 of 2016 (O&M)
Date of Decision: 18.05.2016

Affaj Khan

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. B.S. Tewatia, Advocate for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

CRM No.16099 of 2016

Application is allowed as prayed for.

Statements of Rupesh and Ravi are taken on record as
Annexures P-3 and P-4.

Main Case

This order shall dispose of the present petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case F.I.R. No.428 dated 11.8.2015 under sections 323, 506, 34 I.P.C (section 326 I.P.C was added later on), registered at Police Station, Mujessar, District Faridabad.

Learned counsel for the parties have been heard.

F.I.R came to be registered at the instance of Rupesh Kumar. Occurrence is stated to be of 9.8.2015 within an Ahata/Tavern. Complainant asserted that when he entered the Ahata certain boys were already sitting there and to whom he had called upon not to make a noise and to sit peacefully. This as per the complainant had angered the boys. In so far as the present petitioner is concerned, the specific allegation is of

having struck a blow on the neck of the complainant and with a crystal bottle.

The injury suffered by the complainant/injured Rupesh on the neck has attracted offence under section 326 I.P.C.

Petitioner was arrested on 20.8.2015.

Material witnesses i.e. the complainant/injured himself as also one Ravi i.e. the owner of the Ahata/Tavern have already been examined.

Counsel has even adverted to the deposition of Rupesh/injured and who in his cross-examination has clearly stated that the bottle was struck on his neck from the back side and he is not aware about the identity of the person, who had struck such blow.

The issue as regards offence under section 326 I.P.C being made out against the present petitioner would be a moot question to be considered by the Trial Court.

Trial is still to take some time to conclude.

Without making any observations on merits and keeping in view the length of incarceration already suffered by the petitioner, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Faridabad.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

18.05.2016
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