

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

**CRM No. M-22265 of 2016
DECIDED ON: JULY 11, 2016**

KULDEEP

....PETITIONER

VERSUS

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Present: Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Surinder Singh, AAG, Haryana.

JASPAL SINGH, J (ORAL)

Through this petition preferred under Section 439 Cr.P.C. petitioner has sought regular bail in case FIR No. 286 dated April 26, 2014 under Sections 307 and 452 IPC registered at Police Station Civil Hansi, District Hisar.

2. Shortly put, the allegations contained in the FIR, got registered by complainant-Amar Singh are that on April 26, 2014 at about 12.15 PM he received an information that his son-in-law Kuldeep attacked his son Sukhdev @ Giani at his shop with a sharp edged weapon at about 10.45 AM with an intention to kill him. On receipt of information, he accompanied by his wife

reached at the hospital where his son was brought after the incident and inquired about the whole incident. He came to know that his son-in-law inflicted injuries to his son, on his head and back with sharp edged weapon without any reason. The motive behind the occurrence was that his son-in-law often used to quarrel with his daughter whereas his son Sukhdev @ Giani used to support her.

3. The contention of learned counsel for the petitioner is that petitioner has been falsely implicated in this case. In fact, no such occurrence ever took place. Even otherwise, investigation in this case is complete and challan has already been presented, which is pending disposal. Till date no witness has put in appearance before learned trial Court. It is also a debatable question if an offence under Section 307 IPC is made out. Moreover, in this case petitioner has been arrested on April 26, 2014 and since then, he is in judicial custody. She further submits that petitioner is ready to comply with all the terms and conditions imposed by this case, in case, he is granted the concession of bail.

4. On the other hand, learned State counsel has resisted the bail application on the ground that there are serious and specific allegations against the petitioner who caused injuries to Sukhdev @ Giani with sharp edged weapon while entering his shop, which are dangerous to life and fall within the ambit of Section 307 and 452 IPC. The mere fact that petitioner is behind the bars is itself no ground to enlarge him on bail.

5. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and have gone through the record.

6. Undisputably, occurrence relates to April 26, 2014 which is basically a matrimonial dispute, as there are differences in between the petitioner and his wife. Admittedly, petitioner is cooling his heels in the judicial lock up since the

date of his arrest i.e. April 26, 2014. In this case, investigation is complete and challan has already been presented. At present, learned Additional Sessions Judge, Hisar is *seisin* of the matter. Though as per version of learned State counsel eye witnesses have been examined but to the utter surprise, till date injured has not opted to appear as a witness before the trial Court, which is suggestive of the fact that the matter is being lingered on for the reasons best known to the prosecution. Moreover, it is a debatable question as to whether an offence under Section 307 IPC is made out or not, especially in the circumstances that an opinion given by the concerned Medical Officer is to the effect that injuries appearing on the person of Sukhdev @ Giani could be dangerous to life if the same would not have been treated. There is no specific opinion given by the concerned Medical Officer that the injuries appearing on the person of Sukhdev @ Giani are dangerous to life. Even otherwise, conclusion of trial is likely to take sufficient long time and no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

7. In the light of what has been discussed above, this Court is of the considered view that a case is made out to exercise the discretion as envisaged under Section 439 Cr.P.C.

8. Accordingly, instant petition is allowed and petitioner is ordered to be released on bail at the satisfaction of learned trial Court/Duty Magistrate, Hisar.

JULY 11, 2016
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(JASPAL SINGH)
JUDGE