

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-2227 of 2016 (O&M)
Date of Decision: 15.3.2016

Abbas

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Sunil Panwar, Advocate for the petitioner.

Mr. Rajiv Doon, A.A.G., Haryana.

Mr. Deepanshu Matya, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

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.122 dated 28.3.2015 under sections 302, 323, 324, 34 I.P.C registered at Police Station, Tauru, District Mewat (Nuh).

Learned counsel for the parties have been heard.

F.I.R was registered on the complaint of Yunus son of Saddiq in relation to an occurrence that took place on 27.3.2015 during the late evening hours. Deceased is Saddam i.e. brother of the complainant. As per version of the complainant, Irshad, Shabir, Asri, Tahira and Shakeela who were all armed with *Farsas* and *Lathis/Dandas* had attacked the brother of complainant, Saddam. Specific attributions and overt acts have been made by the complainant qua each of the five accused. Irshad is stated to have given a *Farsa* blow on the head of Saddam. Shabir has been attributed *Lathi* blows upon father of the complainant namely Saddiq. The complainant himself is stated to have been given beatings with a *Danda* by the three women i.e. Asri, Shakeela and Tahira.

Saddam is stated to have succumbed to his injuries suffered in the occurrence subsequently i.e. on 1.4.2015.

The motive attributed by the complainant is that Irshad just prior to the occurrence had climbed on to his house and had made certain derogatory signals towards the women of the house of Yunus and who had been rebuked for such behaviour.

Name of the present petitioner does not even figure in the initial version set up by the complainant which led to the registration of the F.I.R.

During the course of arguments it has transpired that the present petitioner is sought to be implicated on the basis of a statement recorded under section 161 Cr.P.C two days after the occurrence i.e. on 29.3.2015 of Saddiq who had suffered injuries on 27.3.2015 itself. Even as per the statement of injured Saddiq recorded under Section 161 Cr.P.C the role attributed to the present petitioner is with regard to having caused a *Farsa* blow on the head of Saddiq himself. Such injury is stated to have been opined as simple in nature. Even under such statement under section 161 Cr.P.C there is no injury attributed to the present petitioner on the person of Saddam (deceased).

Even though, learned State counsel as also counsel for the complainant would vehemently oppose the present petition stating that the investigating agency has not been fair in its role and a partisan attitude has been adopted to favour the accused, yet, this Court while examining the prayer raised in the present petition is going strictly as per version of the complainant as also the eye witnesses.

On a specific query having been put to the counsel for the complainant as also learned State counsel, it has not been controverted that in the initial version of the complainant as also the statements of all the eye witnesses recorded under section 161 Cr.P.C no direct/over act or injury has been attributed to the present petitioner on the person of deceased Saddam.

Petitioner has been in custody since 26.6.2015.

This Court has been apprised that out of 19 prosecution witnesses cited only one has been partly examined as of date. The trial, as such, would take time to conclude.

In an overview of the matter, petitioner is held entitled to the benefit of bail. Present petition is, accordingly, allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Mewat at Nuh.

It is, however, clarified that the observations contained in this order are confined only as regards consideration of the prayer of the petitioner for grant of regular bail and would have no bearing on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

15.3.2016

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