

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-3571 of 2016 (O&M)

Date of Decision: 26.04.2016

Johnny

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Sukhdeep Parmar, Advocate for the petitioner.

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

Mr. R.S. Budhwar, 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.432 dated 12.10.2015 under sections 323, 307, 452 and 506 I.P.C registered at Police Station, Indri, District Karnal.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the complaint of Sahab Singh. Occurrence is stated to be during the late hours of 11.10.2015. Complainant asserted that the present petitioner was having a grocery shop in the village and also dealt with liquor and other intoxicants. Allegation is that around 10/10.30 P.M on 11.10.2015 complainant went to the shop of the accused/present petitioner to make him understand so as to not indulge in wrong activities but on account of this he was threatened by the petitioner. Complainant having returned back to his house, accusation is that petitioner and one Jasbir came to house of the complainant and having thrown red chilly powder in his eyes, was given blows of handle of spade (binda) on his head, arms and legs. Complainant further asserted that on account of chilies

in his eyes he had become incapable of seeing as to who had given the injuries.

It has gone uncontroverted that the complainant was got admitted at C.H.C., Indri on 12.10.2015 and as per M.L.R four injuries were noted by the Medical Officer and which were described in the following terms:-

“(i) The swelling on right forehead on Rt side 2x2 cm and on Lt. Side 2x2 cm and pain and redness.

(ii) Pain in Lt ear with bleeding. Adv. ENT opinion.

(iii) Swelling & pain in Lt. Forearm with internal injury and limitation of movement. Adv. Ortho Opinion, X-ray Lt. Forearm.

(iv) Abrasion on Lt. Thigh but Pat. Unable to move his leg. Adv. Physician Opinion, Ortho opinion.”

A C.T. Scan having been conducted at a private hospital, opinion of a Govt. Doctor was sought and on the basis thereof offence under section 307 I.P.C was added on 14.10.2015.

Petitioner was arrested on 13.10.2015.

Even though, the complainant has specifically attributed handle (binda) blows on his head, arms and legs but as per his version the present petitioner was accompanied by Jasbir and he himself has stated that he had become incapable of seeing as to who had inflicted the injuries.

Concededly, during the course of investigation co-accused Jasbir was found innocent but thereafter by virtue of an application under Section 319 Cr.P.C having been allowed, Jasbir has been summoned as an additional accused to face trial.

The issue as to whether offence under Section 307 I.P.C is made out against the petitioner, would be a moot question to be considered

during the course of trial.

Co-accused Jasbir having been summoned as additional accused under Section 319 Cr.P.C the trial would now be held *de novo* and as such, would take 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, Karnal.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

26.04.2016

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