

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-37304 of 2015 (O&M)
Date of Decision: 19.01.2016

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--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. J.S. Lalli, Advocate for the petitioner.

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

Mr. N.S. Shekhawat, 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.266 dated 2.5.2015 under sections 323, 325, 365, 307, 449, 34, 506 I.P.C and section 25 of Arms Act, registered at Police Station, Sadar Karnal.

Learned counsel for the parties have been heard.

Complainant/injured is Biplu Mandal. Occurrence is stated to be of the intervening night of 2/3.5.2015. Complainant's version is that while he was sleeping in the house of Rajender Singh, present petitioner along with other co-accused namely Sham Singh, Gautam and Vishal forcefully gained entry and having woken up the complainant asked about the whereabouts of son of Rajender. Sham Singh and Gautam co-accused were stated to be armed with country made pistol and while Vishal and the present petitioner were stated to be armed with *Bindas*.

Specific injury attributed to the present petitioner is of having given a *Binda* blow on the head. Complainant is stated to have been beaten

up and then forcefully taken away under threat of the country made pistol in a white colored Swift car and then thrown in a canal about 1 ½ kms away from the village. Having done so it is also alleged that 2/3 gun shots were fired.

Petitioner was arrested on 23.5.2015.

Ostensibly, the motive behind the alleged occurrence is stated to be a dispute between the main accused namely Sham Singh and Rajender.

It would be pertinent to take note that on 2.5.2015 itself the complainant/injured was examined in a Govt. Hospital and as per such report no fracture was seen. The report is appended at Annexure P-2. Curiously, the complainant thereafter got himself examined two weeks later i.e. On 16.5.2015 at a private hospital namely Virk Hospital, Karnal and in which a fracture was seen in the finger of the left hand. Armed with this report from the private hospital the I.O is stated to have taken up the matter with the Chief Medical Officer, Kalpana Chawla Medical College and Hospital, Karnal stating that earlier X-ray reports had not been prepared at Govt. Hospital Karnal. Learned State counsel has not been able to explain such stand and statement on the part of the I.O. Be that as it may, a second opinion at Kalpana Chawla Medical College and Hospital, Karnal has noticed a chip fracture on the proximal phalanx of the left index finger. Even though, the direct role attributed to the petitioner was of a *Binda* blow on the head, no injury corroborating the complainant's version to such extent has been seen.

Learned counsel appearing for the complainant would oppose the present petition by stating that the main accused Sham Singh is a hardened criminal and is involved in as many as eight other criminal

proceedings. However, in the same breath it has been conceded that even though one more F.I.R against the petitioner under the Arms Act has been registered but that also relates to the same very occurrence and to the same very transaction.

Before the Trial Court the complainant/injured has already been examined. After recording of his deposition even an application under section 319 Cr.P.C has been moved for summoning of additional accused. Trial, as such, would thereafter start *de novo*. In an overview of the matter, the petitioner is held entitled to the benefit of regular bail.

Present petition is, accordingly, allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Karnal.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

19.01.2016
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