

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

CRM No.M-4529 of 2016 (O&M)

Date of Decision: 07.04.2016

Hawa Singh

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Mr. Divay Sarup, Advocate for the petitioner.

Mr. Vivek Saini, DAG, Haryana.

Mr. R.N. Kush, Advocate for the complainant.

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TEJINDER SINGH DHINDSA, J.

Petitioner seeks benefit of regular bail pending trial in case FIR No.168 dated 08.05.2015, under Sections 302/307/323/324/452/506/34 IPC, registered at Police Station Barwala, District Hisar.

FIR came to be registered on the statement of Puran Singh. Occurrence is stated to be of 07.05.2015 and the deceased is Harvilas i.e. brother of the complainant. Complainant's version is that on the date of occurrence Sewa, Balram as also the present petitioner had come to his house at 6:30 PM. Sewa was armed with a *gandasa*, petitioner and co-accused Balram were armed with *jelli*. Sewa co-accused is stated to have inflicted a *gandasa* blow on the head of Harvilas. One of the co-accused Kulbir is stated to have been inflicted *lathi* blow on the head of Harvilas. The complainant Puran Singh, who was present on the spot is also stated to have been inflicted blows with *lathi* on his head, left shoulder and left hand.

As per initial version of the complainant which led to the registration of the FIR, motive attributed was that one day prior i.e. on 06.05.2015, the complainant and Harvilas (since deceased) had an altercation with co-accused Sewa over watering of the fields.

Harvilas is stated to have succumbed to the injuries suffered on 10.05.2015.

In the trial that has ensued, material witness Puran Singh has been examined as PW-1.

Even though, in the initial version, no injury/role had been attributed to the present petitioner apart from being present on the spot and armed with *jelli* but in his deposition before the trial Court as PW-1, he has stated that after Harvilas was struck on the head by a *gandasa* by co-accused, Sewa and the present petitioner had thereafter dragged the injured Harvilas away from the spot. Even in his deposition before the trial Court, no injury has been attributed to the present petitioner.

As per post mortem report, there is one incised wound on the head of Harvilas and which as per opinion of the doctors was the cause of death. Such injury as per the version of the complainant is attributed to Sewa S/o Jagmal Singh.

It may also be pertinent to take note that in his deposition before the trial Court, Puran Singh-complainant has attributed a further motive to the entire occurrence by stating that niece of the present petitioner Hawa Singh, namely, Sonia had been murdered and it was Harvilas (since deceased) who had informed the police and even though the matter had been settled thereafter but the present petitioner and other co-accused had nursed a grudge on such account.

Learned State counsel has informed that out of 20 prosecution witnesses cited, only 2 have been examined till date. The trial, as such, would take time to conclude.

Keeping in view the version of the complainant who is an eye

witness and as stated before the trial Court and wherein no specific injury had been attributed to the petitioner on the person of deceased Harvilas and keeping in view his length of incarceration i.e. since 29.05.2015 and without making any observations on merits, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Hisar.

Disposed of.

07.04.2016

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE