

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM No. M-5117 of 2016 (O&M)  
Date of Decision: 12.04.2016

Hassan Mohd.

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Vivek Saini, D.A.G., Haryana.

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**TEJINDER SINGH DHINDSA.J**

CRM No.12275 of 2016

Application is allowed as prayed for.

Statement of complainant (PW-3) is taken on record as  
Annexure P-6.

Main Case

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.75 dated 16.10.2014 under sections 148, 149, 323, 427, 452, 506, 307, 302 I.P.C and section 25 of Arms Act, registered at Police Station, Bahin, District Palwal.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the statement of Aamin son of Nashru in relation to an occurrence that took place on 16.10.2014. Complainant stated that the present petitioner as also a number of other co-accused armed with *Lathis*, *Dandas* and other weapons had attacked on the house of Yasin and in which Bano wife of Yasin, who was present in the house was beaten up with *Lathis*, *Dandas* and stones and who succumbed to

her injuries. Motive attributed is with regard to cast of votes for the State Assembly Elections and in favour of the opposite faction.

F.I.R was lodged at 5.15 P.M on 16.10.2014. A supplementary statement of the complainant namely Aamin is stated to have been recorded on 16.10.2014, wherein specific role has been assigned to the petitioner i.e. of having fired from a gun and *Desi Katta* resulting in injuries to the complainant himself. Even in such supplementary statement there is no injury attributed to the petitioner and on the person of Bano (since deceased).

During the course of trial Aamin has been examined before the Trial Court as PW-3 and even in his deposition he has attributed gun shot injuries on his own person and at the hands of the present petitioner. In his deposition yet again no injury has been attributed to the petitioner on the person of Bano.

Counsel for the petitioner has referred to statements recorded under section 161 Cr.P.C by the investigating agency and in none of them any role has been attributed to the present petitioner of having inflicted injuries upon Bano.

Petitioner was arrested on 1.9.2015.

Learned State counsel would inform the Court that out of 33 prosecution witnesses cited only 5 have been examined till date. Trial, as such, would take time to conclude.

The issue as to whether offence under section 302 I.P.C is made out against the present petitioner would be a moot question to be considered during the course of trial.

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, Palwal.

Petition disposed of.

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

**12.04.2016**  
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