

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

CRM No.M-6578 of 2016 (O&M)

Date of Decision: 23.04.2016

Binder Singh

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. Piyush Sharma, Advocate for the petitioner.

Ms. Manpreet Dhaliwal, AAG, Punjab.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of the present petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.169 dated 03.07.2015, under Sections 323/148/149 IPC (Section 302 IPC has been enhanced later on), registered at Police Station Sadar Ferozepur, District Ferozepur.

Counsel for the parties have been heard at length.

Deceased in the present case is Sukhdev Singh. Occurrence is stated to be of 01.07.2015.

Smt. Santosh Kaur is stated to be an eye witness to the occurrence. As per statement of Smt. Santosh Kaur, the occurrence is alleged to have taken place within a *haveli*. As per her statement, her husband Sukhdev Singh was attacked by a number of persons including Harmesh Singh armed with *kappa*, Jagir son of Fauja Singh armed with iron rod, Balkar Singh son of Jagga Singh armed with *kirpan*, Surjeet Singh son of Teja Singh armed with hockey, Jarnail Singh @ Pritam armed with *kirpan*. The specific attribution of a *kappa* blow on the head of Sukhdev

Singh (since deceased) is to Harmesh Singh. Such version of wife of the deceased finds corroboration from the MLR of Sukhdev Singh. Even as per post mortem report, the cause of death has been opined to be head injury suffered by Sukhdev Singh.

The name of the present petitioner does not even figure in the statement of Smt. Santosh Kaur and neither is his presence recorded.

It stands uncontroverted that the petitioner is sought to be implicated on the statement of Dayal Singh recorded by the Investigating Agency under Section 161 Cr.P.C. and that too after 15 days of the date of occurrence. Even such statement has been placed on record at Annexure P-6 and perusal of the same would reveal that it only shows the present petitioner to be present on the spot even though unarmed.

There is no injury, in any case, attributed to the present petitioner upon the person of deceased, Sukhdev Singh.

Petitioner has been in custody since 29.07.2015.

Challan has already presented but charges have not been framed till date. The trial, as such, would take time to conclude.

In view of the circumstances noticed hereinabove and without making any observations on merits, petitioner is held entitled to the benefit of bail.

Accordingly, petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Ferozepur.

Disposed of.

23.04.2016

shubham

**(TEJINDER SINGH DHINDSA)
JUDGE**