

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-7163 of 2016 (O&M)

Date of Decision: 12.04.2016

Narinder Kumar Tyagi

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Abhishek Sethi, Advocate for the petitioner.

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

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.411 dated 16.7.2015 under sections 148, 149, 332, 353, 186, 307, 506 I.P.C registered at Police Station, Jagadhari, District Yamuna Nagar.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the statement of H.C Anil Kumar. Complainant had asserted that secret information had been received that the present petitioner along with Vinod Kumar, Dalip, Tungal Saini as also 4/6 other associates are indulging in the illegal business of selling liquor at Kali Mandir, Jagadhari. Based on such secret information, a raid was conducted on 15.7.2015 at about 8 P.M. Allegations are that the present petitioner and his associates raised a *lalkara* to teach the police party a lesson for conducting a raid. As per version of the complainant the present petitioner gave blow of an iron rod on the head of Constable Amarjit Singh. Another member of the raiding party namely Constable Randhir Singh is also stated to have received injuries.

It has gone uncontroverted that offence under section 307 I.P.C has been cited on account of an injury suffered by Constable Amarjit Singh on his head and attributed by complainant H.C Anil Kumar to the present petitioner.

Petitioner was arrested on 16.7.2015.

In the trial that has ensued both H.C. Anil Kumar as also injured Constable Amarjit Singh have been examined. Their deposition have been referred to during the course of hearing and they have clearly stated that the occurrence took place during the late evening hours of 15.7.2015 when it was pitch dark. Injured Constable Amarjit Singh has clearly stated that on account of darkness he does not know, who had hit him and given blows to him. It has been stated that no test identification parade had been undertaken. In his cross-examination in chief constable Amarjit Singh stated that the names of the accused as disclosed by him were the same as were disclosed to him by the I.O and the deposition is based as per version of the I.O. Furthermore, it was stated that a mob of 100/150 persons had been gathered at the spot but no independent witness had been joined.

Under such circumstances, the issue as to whether offence under section 307 I.P.C is made out against the present petitioner would be a moot point to be considered during the trial proceedings.

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, Jagadhari.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

12.04.2016

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