

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

CRM No.M-7310 of 2016 (O&M)

Date of Decision: 07.04.2016

Mahinder Singh

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Mr. S.K. Garg, Senior Advocate with
Mr. Teevar Sharma Dumerkha, Advocate for the petitioner.
Mr. Anmol Malik, AAG, Haryana.
Mr. Rajiv Kumar Saini, Advocate for the complainant.
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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.65 dated 15.02.2015 under sections 148, 149, 323, 325, 302, 120-B, 212 I.P.C and section 25 of the Arms Act, registered at Police Station Indri, District Karnal.

Learned counsel for the parties have been heard.

F.I.R was registered on the statement of Pawan Kumar @ Pintu in relation to an occurrence that took place on 14.02.2015. Complainant claimed himself to be an ex Municipal Councilor of Indri town. At about 5.30/6 P.M on the date of occurrence he is stated to have been assaulted by the present petitioner as also other co-accused namely Jaspal @ Jassu, Surender @ Dara, Khopri and Sompal @ Babli. In so far as the present petitioner is concerned, he was stated to be armed with an iron rod. Accusations are that the petitioner as also co-accused who were also armed with iron rods, had caused injuries to the complainant on his legs, arms and right hand.

Complainant Pawan Kumar expired on 17.03.2015.

Petitioner was arrested on 13.05.2015.

During the course of arguments it has transpired that Pawan Kumar (since deceased) was initially taken to C.H.C. Indri for treatment and then referred to Govt. Hospital, Karnal. Thereafter, he was referred to P.G.I., Chandigarh. However, Pawan Kumar was got admitted in a private hospital in Karnal and thereafter taken for treatment to Muzaffar Nagar (U.P), Merrut and finally admitted to Fortis Hospital, Noida on 21.02.2015. He died in Fortis Hospital, Noida on 17.03.2015.

The Post Mortem Report of deceased Pawan Kumar has been referred to during the course of arguments and which would reflect six injuries on the non-vital parts of the body. The cause of death has been opined to be septicemia shock followed by treatment of ante mortem injuries.

Even though, the petitioner was stated to be armed with an iron rod, yet, as per final challan report no recovery of such iron rod has been shown.

Under such circumstances, the issue as to whether offence under section 302 I.P.C would be made out, is a moot question to be considered during the course of trial.

Petitioner has suffered incarceration since 13.05.2015.

The trial is still stated to be at the very initial stage and as such, would take time to conclude.

Without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of C.J.M./Duty Magistrate, Karnal.

Petition disposed of.

07.04.2016

**(TEJINDER SINGH DHINDSA)
JUDGE**