

CRM-M-8386-2016

Date of Decision : 28.04.2016

Rajpal

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. R.S. Longia, Advocate
for the petitioner.

Mr. Vikas Malik, D.A.G, Haryana.

M.M.S. BEDI, JUDGE (ORAL)

Petitioner seeks concession of regular bail in a case registered at the instance of Krishan alleging that on 18.02.2011, the complainant was taken from his house in a Gypsy by Labh Singh and Ishwar and was made to drink liquor by said persons along with Som Dutt and one Jai Pal and after one of them had moved towards their fields in Gypsy two other persons also boarded the Gypsy and after sometime the complainant was alighted from the Gypsy and was assaulted with Swords, Bindas etc by all the accused.

So far as the petitioner is concerned, petitioner appears to have not been named in the FIR. On the instructions of ASI Ranjodh Singh, State counsel informs that the person named as Labh Singh is none else but petitioner who claims himself to be Rajpal.

I have heard the counsel for the petitioner and gone through the police record. From perusal of the record, it transpires that Laxman, Ishwar and Som Dutt had already been convicted on 11.04.2014 by Additional Sessions Judge, Karnal. Their appeal is pending in the High

Court and their sentence stands suspended. So far as the petitioner is concerned, he was allegedly declared proclaimed offender on 05.08.2011.

I have gone through the MLR of the injured which indicates that none of 10 injuries is a grievous injury. A perusal of the judgment in the case of Laxman Singh etc. indicates that the trial Court has observed that it is not necessary for conviction under Section 307 IPC that bodily injury should be capable of causing death. The said observation is still to be tested by the Appellate Court.

I have also considered the contention of State counsel that petitioner had been declared proclaimed offender. In view of the controversy regarding the name of the person who is nominated in the FIR which is absolutely different from the name of the petitioner, it will certainly be a debatable issue whether the declaration of petitioner as a proclaimed offender could be treated as a factor against him while considering his prayer for bail.

Taking into consideration the above said circumstances, the petitioner who has been in custody with effect from 26.08.2015, can be granted the concession of bail.

Petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

(M.M.S. BEDI)
JUDGE

28.04.2016
Neha