

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-8637 of 2016 (O&M)

Date of Decision: 28.04.2016

Sandeep

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. N.S. Shekhawat, Advocate for the petitioner.

Mr. Vivek Saini, D.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.470 dated 18.11.2014 under sections 148, 149, 302, 212 I.P.C registered at Police Station, Tauru, District Mewat.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the statement of Yusuf in relation to an occurrence that took place on 18.11.2014 and in which Aasif i.e. brother of the complainant lost his life. It was asserted by the complainant that at about 7 O'clock in the evening while he along with his brother Aasif (since deceased) had gone to the market, a number of persons including the present petitioner accosted them. Specific attribution is to co-accused Rahul for having given a knife blow on the chest of Aasif.

The Post Mortem Report appended along with the petition would corroborate the version of the complainant Yusuf as regards the knife blow and resultant injury on the chest of Aasif and which was also opined to be the cause of death.

Petitioner was arrested on 18.11.2014 itself. After completion of investigation challan was presented on 15.02.2015 and in which the present petitioner was nominated as an accused.

It has gone uncontroverted that an application was moved on 26.5.2015 under Section 173 (8) Cr.P.C seeking permission to conduct further investigation which was allowed by the concerned Magistrate on 27.5.2015. In pursuance thereto an application came to be moved on 7.7.2015 seeking discharge of the petitioner. Upon filing of such discharge application present petitioner was released on 7.7.2015 by the learned Sessions Court.

Apparently, a protest petition came to be filed by the complainant and on 19.2.2016 the discharge application moved by the prosecution has been dismissed and as a result thereof the petitioner has again been taken into custody.

Learned State counsel informs the Court that on 31.3.2016 even the charges stand framed.

The trial is at the very initial stage and would take time to conclude.

Even as per version of the complainant even though, the present petitioner was stated to be present on the spot at the time of occurrence but there is no specific injury attributed to him. Rather the solitary injury i.e. a knife blow on the chest of the deceased Aasif is attributed to co-accused Rahul.

Promod son of Rajender Sharma and who was also stated to be present on the spot, has been granted benefit of bail by this Court in the light of order dated 19.8.2015 passed in CRM No. M-26645 of 2015.

It is also the contention raised by counsel that the petitioner having been released in pursuance to the discharge application moved by the prosecution on 7.7.2015 the same would be construed as an order of bail itself under Chapter 33 of the Code of Criminal Procedure and such benefit is to be enure in favour of the petitioner during the course of trial.

Without making any observations on merits and keeping in view the total length of incarceration already suffered by the petitioner that would be almost nine months approximately, petitioner is held entitled to the benefit of bail. Accordingly, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Mewat.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

28.04.2016
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