

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-17931 of 2017

Date of Decision: 13.07.2017

Irshad

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sarfraj Hussain, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

Mr. Deepkaran Dalal, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

CRM-21391-2017

Application is allowed as prayed for and copies of statements Annexure P-5 to Annexure P-8 are taken on record subject to all just exceptions.

CRM-M-17931-2017

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.130 dated 27.11.2014 registered for offences punishable under Sections 148, 323, 302, 447, 506 read with Section 149 of Indian Penal Code (for short, "IPC") at Police Station Bahin, District Palwal, Haryana.

As per case of prosecution, occurrence took place on 27.11.2014 at about 04.00 p.m., when complainant-Fayyad was working in his field. The petitioner alongwith his co-accused armed with *lathies, dandas, farsa, ballams* and iron rod came in the field of complainant on their tractor bearing no. HR-

52-2012 and started destroying the standing wheat crop of complainant. When

complainant protested he was given fist and kick blows and was made to run away from the spot. Complainant reached home and narrated the incident to his family. At about 05.30 p.m. all the family members came to field and asked petitioner and his co-accused not to destroy crop in their field. At this petitioner-Irshad gave *farsa* blow from reverse side on the shoulder of complainant. Co-accused-Sabba caused injury on right knee of complainant with *lathi*, Hakmuddin gave *lathi* blow on the thigh of mother of complainant, namely, Basiri while Ayyub pressed her neck and threw her away from the field. Accused Sarbari and Sabba also caused injuries to Basiri by giving her leg and fist blows. Sahid gave *lathi* blow to Taksim while Nasir and other accused caused injuries to other persons from side of complainant present at the spot. Md. Raju Khan and Rashidan came to the spot and saved complainant and his family members. Basiri was taken to hospital but she died because of injuries suffered by her.

Learned counsel for the petitioner submits that it is a false case registered against the petitioner. Initially, the police had given discharge report but later on complainant party filed petition in this Court and petitioner and his co-accused were arrested. The petitioner moved application for further investigation in this case. The dispute pertains to land which complainant party want to grab from the petitioner. While referring to statements of Irfan, Nishar and Deen Mohammad recorded by the police under Section 161 Cr.P.C., learned counsel for the petitioner has argued that no occurrence, as alleged by complainant, took place and by relying on their statements, the police had filed discharge report.

Learned State counsel assisted by learned counsel for complainant has argued that Basiri had died because of injuries suffered by her in the occurrence. The petitioner has been attributed two injuries on the person of

Basiri. As per postmortem report, there were four injuries on her person and doctor had given opinion that Basiri had died due to injuries suffered by her. Copies of statements of witnesses (Annexure P-5 to Annexure P-8) have no relevance as Irfan and Nishar, whose statements have been placed on file as Annexure P-5 and Annexure P-6, have stated that they have heard about the occurrence and then went to the spot. They intervened and no fight took place. To similar effect is the statement of Deen Mohammad and Mohd. Issa. Injuries were found on the person of Basiri and neither of these witnesses have stated as to how Basiri had suffered these injuries.

It is a case where Basiri, an old lady of 70 years had died in the occurrence due to injuries suffered by her. The petitioner has been attributed specific injuries on her person. The trial is in progress and I have been apprised that 10 out of 13 witnesses have since been examined. The Court has yet to record statement of complainant. Grant of bail to petitioner at this crucial stage may adversely effect the case of prosecution, as the petitioner, who admittedly has land dispute with complainant party, may exert pressure on complainant and other prosecution witnesses.

Keeping in view above facts, I find no reason to extend the benefit of regular bail to petitioner. The instant petition has no merit and the same is dismissed. However, trial Court is directed to expedite disposal of the case and dispose of the same within a period of six months on receipt of copy of this order. The period of six months shall be extended in case trial is delayed by the accused.

July 13, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No