

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No.M-26429 of 2017 (O&M)
Date of Decision: August 04, 2017.**

Ujagar Singh

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Arora, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

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. 171 dated 13.10.2016 registered for the offences punishable under Sections 302, 148 read with Section 149 of Indian Penal Code at Police Station Division No. 5, Jalandhar.

Heard.

Notice of motion.

On asking of the court, Mr. Amandeep Singh Gill, Senior DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

As per the case of the prosecution on 12.10.2016 at about

9.00 p.m. there was quarrel between Munish Luthra-son of complainant and

petitioner Ujagar Singh and his other co-accused. In that quarrel Ujagar Singh caused two injuries with *Kirpan* which hit on the right hand below his elbow and on the wrist. Injuries were also caused to the deceased (Munish Luthra) by brother in law of petitioner namely Pawan and other co-accused Pahari with *Dang*. An unidentified person who was also present at the spot gave two *Kirpan* blows which landed on the back and backside of the head of the deceased. On the exhortation given by co-accused Nimmo wife of petitioner, Gaurav son of petitioner gave stabs in the stomach of Munish Luthra-son of complainant.

Learned counsel for the petitioner seeks bail for the petitioner claiming parity with Pahari who was also attributed injuries with *Dang* on the shoulder of deceased and Nimmo who was attributed *Lalkara*. Both have been allowed regular bail by the Co-ordinate Bench of this Court along with Vishal @ Mani, who was not attributed any injury.

Learned State counsel submits that the petitioner and his son Gaurav are the main accused in this case. Petitioner was armed with *Kirpan* and caused injuries on the person of son of complainant, who was objecting selling of liquor by the petitioner in the village.

As per the version of the prosecution, a quarrel had ensued between Ujagar Singh, his co-accused and son of complainant and in that quarrel injuries were caused to son of complainant by petitioner and his co-accused Pawan and Pahari. It was at later stage that Gaurav son of petitioner was incited by his mother to give stab blows in the stomach of son of complainant. Gaurav followed the dictate of his mother and gave stab blows in the stomach of the deceased which ultimately proved fatal.

It will be for the trial Court to see as to whether the injuries attributed to petitioner were caused with intention to kill the deceased. These injuries appear to have been caused prior to the exhortation of Nimmo-wife of petitioner to her son. It may also be a question to be seen by the trial Court on the strength of the evidence to be produced by the prosecution as to whether there was common intention of all the accused to commit murder of son of complainant.

Keeping in view the above facts, the petitioner, who is in custody since 14.10.2016 and that the trial is still in progress but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner Ujagar Singh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.

(SURINDER GUPTA)
JUDGE

August 04, 2017
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***