

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

CRM-M No.30527 of 2016

Date of decision: 28th November, 2017

Surender @ Chhinda

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.
Mr. Munish Sharma, Asstt. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Allegations against the petitioner Surender alias Chhinda in this third regular bail application filed under Section 439 Cr.P.C. in case bearing FIR No.961 dated 30.12.2012 registered at Police Station Civil Lines, Hisar under Sections 302/307/148/149 IPC and Section 25 of the Arms Act, as brought to the notice of this Court are to the effect:-

The present case was got registered by complainant Samunder, a 10+2 student, alleging that on 30.12.2012 at around 12.30 a.m. accused Narpender, Mogli sons of Surender along with Karan came to their house on motorcycles and started abusing the complainant's house inmates to which the complainant, his brother Vikram and mother Risali Devi objected and went to the house of accused Surender for complaining. It is thereafter, about 1 ½ hours later Surender, Deepak (both brothers) along with Narpender, Mogli (both brothers), Karan,

Jitender alias Jeetu, Shibu Balmiki and Kalia Gujjar all armed with weapons along with 30/35 persons who too were armed with brick bats and iron pipes, came in front of the house of complainant and started abusing and throwing brick bats on them, at which the complainant along with his brother Vikram, mother Risali Devi and their other family members and one friend Sandeep went on roof to save themselves. After that it is alleged that Surender fired a shot from his .315 bore rifle hitting right side of chest of Sandeep who fell down and in the meanwhile Narpender, Mogli, Deepak, Karan Gujjar, Jitender @ Jeetu, Sheelu @ Chhilllo, Shibu Balmiki and Kalia Gujjar all started firing shots from their fire arms towards the complainant side hitting both legs of the complainant, a water tank and the house at different points. On hearing *raula* and noise of firing, people gathered as a consequence of which assailants ran away leading to death of Sandeep.

Dr. Anmol Rattan Sidhu, Senior Advocate assisted by Mr.Pratham Sethi, Advocate appearing on behalf of the petitioner has argued that the petitioner is behind bars since 01.01.2013 and there are more than 39 accused and that no specific role is attributed to the petitioner and the trial is not likely to conclude in the near future and has sought to place reliance on a news item published in a local daily newspaper to hammer home the point that it was a free-fight and no liability can be fastened upon the petitioner.

Learned State counsel has vehemently opposed grant of relief on the grounds that trial is underway and that the petitioner belongs to

Inder Gujjar Gang and that the delay in trial is attributed to the accused and if allowed bail they will intimidate the witnesses.

Appreciating the submissions, apparently and undisputedly as is the stand of the two sides, there has been a group clash between the two rival gangs whereby the accused side is pictured to have attacked the complainant household leading to death of one person from the side of the complainant due to fire arm injuries. Trial is at a crucial stage and if allowed bail there is every likelihood that the petitioner might intimidate the witnesses together with the fact that courts being tools of social justice needs to ensure maintenance of social justice as well as law and order in the society and if such like persons merely on the basis of long incarceration are allowed relief, would lead to chaos. More so, as is apparent from the records of the trial Court, the delay is more attributed to the accused side. Keeping in view that no fresh ground for allowing the present petition is made out and mere period of incarceration is no sole criteria to assess such a relief, in view of seriousness of allegations and heinousness of the offence and the likely threat to the society at large, impels this Court to decline the relief.

Dismissed.

(FATEH DEEP SINGH)
JUDGE

November 28, 2017

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No