

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

**CRM No.M-3970 of 2017 (O&M)
Date of decision:16.02.2017**

Lalit Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

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

Present:- Mr. J.S. Mehndiratta, Advocate for the petitioner.

Mr. Deepak K. Grewal, DAG, Haryana.

...

TEJINDER SINGH DHINDSA, J.

Petitioner seeks benefit of regular bail pending trial in case FIR No.270, dated 04.05.2014, under Sections 148, 149, 186, 332, 343, 341, 307, 302 IPC, registered at Police Station Jagadhri, District Yamuna Nagar.

As per allegations, Amit Kumar killed Ramesh Kumar in broad day light and immediately thereafter the petitioner along with 15 to 20 other persons attacked at Amit Kumar and killed him. Three police officials were alleged to have reached at the spot whereupon a number of persons including the present petitioner even attacked the police party and caused them simple injuries.

Petitioner was arrested on 21.05.2014.

Learned State counsel would vehemently oppose the present petition by contending that the petitioner is the nephew of the deceased Ramesh Kumar and by virtue of such close relationship, his complicity in the offence is clearly indicated.

It is however, gone uncontroverted that the only evidence collected by the prosecution against the petitioner is his own disclosure statement. That apart, the *pharsa* allegedly used in the occurrence to attract injuries upon Amit Kumar deceased is stated to have been recovered from the petitioner.

The evidentiary value of a disclosure statement suffered by an accused would be considered during the course of trial.

Counsel appearing for the petitioner has adverted to the Post Mortem report of Amit Kumar to contend that the injuries are not inflicted by any sharp edge weapon having been used. Prima facie such arguments cannot be said to be without merit.

It may also be apposite to take note that a Coordinate Bench of this Court while granting benefit of bail to co-accused Kamal Kumar in CRM No. M-28393 of 2016 vide order dated 05.12.2016 had observed that assuming it to be the worst case and even if it is proved that the petitioner was a part of the group who killed Amit Kumar, he may be able to plead not guilty and take the defence of sudden provocation.

The same line of reasoning can also be observed to hold good even for the present petitioner. State counsel apprises the Court that the trial is still at the initial stage. The same as such would take time to conclude.

In view of the discussion above and coupled with the length of incarceration already suffered by the petitioner, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Trial Court/Duty Magistrate, Yamuna Nagar.

It is however made clear that the observations contained in this order are confined only as regards considering the prayer of the petitioner for grant of bail and would have no bearings on the merits of the case.

Petition disposed of.

16.02.2017

hemlata/yogesh

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |