

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

Criminal Misc. No.M- 41029 of 2017(O&M)

Date of Decision: November 28 , 2017.

Farukh PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Sanjay K.Saini, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No.319 dated 14.09.2016 under Sections 148/149/302/323/354A/379B/120B IPC, registered at Police Station Hathin, District Palwal.

It is submitted that Farukh and Fammu are two different persons. Both of them are brothers, sons of Fojalli. This fact has been accepted by the complainant in his testimony before the learned trial court. It is submitted that even as per the allegations, the present petitioner as well as Fammu are alleged to have held the hands of the deceased while the fatal blow on his chest was dealt

by the co-accused Sube Deen. Learned counsel for the petitioner vehemently argues that as many as seventeen (17) persons were named in the FIR. Eleven (11) of the said accused were declared innocent during investigation including Sube Deen and Samina. However, four of the said accused i.e., Sube Deen, Samina, Sakmu and Hakmu have now been summoned to face trial as additional accused on an application under Section 319 Cr.P.C. The petitioner, it is stated, has been in custody since 27.09.2016. He is not involved in any other criminal case. It is submitted that similarly situated co-accused i.e., Fammu, who is attributed with holding hands of the deceased has been afforded the concession of bail pending trial. It is thus prayed that this petition be allowed.

Learned counsel for the State, on instructions from ASI Desh Raj, verifies that Farukh and Fammu are two different persons. It is not denied that the complainant alleged that both the said persons held the hands of Rijwan i.e., the deceased, while Sube Deen (earlier found innocent, now summoned under Section 319 Cr.P.C.) dealt the fatal blow on the chest of Rijwan.

The petitioner is not reported to be involved in any other criminal case. All material prosecution witnesses in this case have since testified before the learned trial court. However as additional accused have been summoned to face trial, the same is not likely to conclude in the near future.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this

petition filed by Farukh is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

November 28 , 2017.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No