

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

**Crl. Misc. No.M-42296 of 2017 (O&M)
Date of Decision: November 17, 2017.**

Bhupender

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjay Vashisth, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure (for short-Cr.P.C.) for grant of regular bail to the petitioner in case FIR No. 743 dated 16.10.2016 registered for the offences punishable under Sections 302, 506 read with Section 34 of Indian Penal Code (charge-sheeted u/s 302 read with Section 34 IPC), at Police Station Sadar Palwal, Tehsil and District Palwal.

Heard.

Notice of motion.

On asking of the court, Mr. Deepak Grewal, D.A.G. Haryana 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.

Mr. Anil Kumar Lamdharia, Advocate, who is present in the Court, has put in appearance on behalf of complainant and filed power of attorney.

As per allegations in the FIR, the occurrence took place on 16.10.2016, when the complainant along with her husband Rajender and son Hemant was working in the fields. His son Sonu also came to the fields to provide them tea. In the nearby fields, Kishori, his son Bhupender (petitioner) and Harish were also working. At about 5.30 p.m., when complainant and her son placed jawar crop in vacant land of some company to which Kishori and others objected, which resulted in scuffle. Kishori and Bhupender started teasing the complainant at which her husband intervened. Petitioner Bhupender gave a blow with tractor handle in the chest of her husband and also gave him fist blows while Kishori gave fist and kick blows to the complainant. Harish caused injury on the shoulder of Sonu. Petitioner was arrested in this case on 21.10.2016 and police presented the challan on 07.01.2017 against two persons namely Bhupender petitioner and Kishori, who is on bail. Remaining accused named in the FIR were found innocent.

Learned counsel for the petitioner submits that from the allegations in the FIR, it is not made out that petitioner had any intention to kill husband of the complainant. The dispute has arisen over a scuffle in the field and as per the allegations, he had given a blow with handle of tractor in the chest of deceased Rajender. After the presentation of challan, case is not proceeding further as the complainant moved application under Section 319 Cr.P.C., which was dismissed by the trial Court, against which revision is pending.

Learned State counsel and learned counsel for the complainant have argued that petitioner is the main accused. It is because of the injury

caused by the petitioner, Rajender has died. There was specific allegation against the other accused, who were not challan by the police. The application filed under Section 319 Cr.P.C. was dismissed against which revision has been filed.

Learned counsel for the complainant further submits that police is helping the accused by not narrating the true facts before the Court.

Petitioner was arrested about 12 months back and the case is not proceeding further as the revision filed by the prosecution/complainant against the order declining the application under Section 319 Cr.P.C. is still pending.

Keeping in view the above facts and that conclusion of trial will take considerable long time but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner Bhupender 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

November 17, 2017
Sachin M.

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No