

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

CRM-M No.5458 of 2017

Date of Decision: 28.04.2017

Nasiba

.....Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Karanvir Singh Khehar, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

Mr. Vikas Kumar, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner has prayed for grant of regular bail in case bearing FIR No.29 dated 11.01.2016 registered under Sections 148, 149, 323, 506 IPC (offence under Section 302 IPC added later on) at Police Station Sadar, District Palwal.

[2]. FIR was registered at the instance of Talim. Complainant alleged that on 11.01.2016 at about 10.30 AM, the children of their family were going to forest area from their house. Complainant, Razaak, Liyakat, Aalam, Fatti. Sahida and Anwari were sitting in the house. They heard the cries of the children and they stood up. They found the children coming while crying. On asking, the children told that Rashid has beaten them. Complainant and others went ahead and asked Rashid as

to why he has given beating to the children. On this, Rashid started abusing them and started calling his family members whereupon Sabir, Rafi, Tahir, Nasir, Nasiba, Sahida, Jaikam came there duly armed with sticks, dandas and farsas. Tahir inflicted a stick blow on the palm of right hand of the complainant and second blow was inflicted on the left shoulder of the complainant. Nasir inflicted a stick blow on the elbow of left hand of the complainant. Rafi Mohammad gave a farsa blow on the head of cousin of the complainant namely Razaak. Nasiba gave a stone blow on the chest of cousin of the complainant namely Liyakat. Nazim inflicted a stick blow to Liyakat. Sahid inflicted many stick blows to Aalam. Sabir, Jaikam and Rashid caused injuries to the uncle (Chacha), Fatti, Sahida and grand mother (Anwari) of the complainant. On making alarm, Rukku, Sokat and Ahmed attracted to the spot and rescued the complainant and his family members. Razaak died on 17.01.2016 and offences under Sections 302, 325 IPC were added.

[3]. As per allegations in the FIR, the petitioner was attributed with a blow on the chest of Liyakat. No other injury was attributed. The challan was presented against Tahir, Sahid, Nasir and Nasiba on 06.04.2016. Supplementary challan was presented against Harun, Noor Mohd. and Aalam. Charges

were framed on 16.07.2016. The prayer for regular bail of the petitioner was declined by the Additional Sessions Judge, Palwal on 21.07.2016.

[4]. As per MLR of Liyakat, the injury found on his person was simple in nature. No recovery of stone was effected from the petitioner. The first bail application before this Court i.e. CRM-M No.35757 of 2016 was dismissed as withdrawn on 19.10.2016.

[5]. Learned counsel for the complainant by referring to statement of Fatti under Section 161 Cr.P.C contended that the petitioner along with others had inflicted injuries to Razaak by lathis, dandas and farsas etc. Learned counsel also referred to the disclosure statement of the petitioner, wherein he allegedly admitted his participation.

[6]. In view of development in terms of Section 319 Cr.P.C, I deem it appropriate to grant liberty to the petitioner to file fresh application for regular bail before the Court of Sessions. In the event of filing such application, the Court of Sessions would decide the same in the light of material on record without being influenced by earlier order dated 21.07.2016 or withdrawal of CRM-M No.35757 of 2016 before this Court. Let the Court of Sessions apply its mind to the factual position appearing on record in view of subsequent events and pass the order in

accordance with law.

[7]. Disposed of accordingly.

28.04.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No