

CRM-M-10424-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10424-2018

Date of Decision: 16th March, 2018

Hukum Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate
for the petitioner.

Mr. Kuldeep Sharma, DAG, Haryana.

Mr. J.S. Bedi, Senior Advocate with
Mr. Sonpreet S. Brar, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.19, dated 18.01.2018, registered at Police Station Sector 56, District Gurugram, under Sections 147, 148, 323, 325, 341, 452, 307 & 506 of the Indian Penal Code.

It is the contention of the learned senior counsel for the petitioner that the petitioner is 87 years of age and he has been falsely implicated in the case. Even going by the FIR in question, the allegations

against the petitioner are that he had raised *lalkara* and thereafter, had given a *lathi* blow on the feet of the complainant with a further *lalkara* to the others to hit the complainant on the head so that he dies. He contends that in the medico legal report of the complainant, no injury has been found on the feet of the complainant, although there are fracture injuries on the tibia and fibula which could be because of injury attributed to co-accused Ankush on the calf of left leg. He contends that the petitioner being an old man and in custody since 24.02.2018, challan having been presented before the trial Court and trial is likely to take long time, he may be granted the concession of regular bail.

Learned counsel for the State, on the other hand, contends that the petitioner along with the others waylaid the complainant outside his house with an intention to give injuries. When the complainant came, he along with others had given beatings to the complainant with sticks which were having barbed wire on it. Hukan Chand has given a *lathi* blow on the leg of the complainant and the fracture in the tibia is attributable to the petitioner. He, therefore, contends that the petitioner is not entitled to the concession of regular bail.

Learned senior counsel for the complainant has disputed the age of the petitioner and states that he had disclosed his age as 73 years when he was taken for medical examination after his arrest. He further contends that it is not only once that the petitioner along with others had attacked the complainant outside his house. When they had left the place of occurrence thinking the complainant to be dead, his family members had

taken him into the house, they again came back carrying sticks in their hands and entered the house and gave beatings to the complainant when he was lying on the cot. He, thus, contends that in these circumstances, when the petitioner is the leader of the group and had been leading them to and for the commission of the offence, he should not be granted the concession of bail. Apart from this, the fact is that there were three earlier FIRs registered at the behest of the complainant in one of which there is a cross-case also. He contends that proceedings under Sections 107/151 of Cr.P.C. stands initiated between the parties but during the period of one year of keeping peace, the petitioner and his family members violated the above provisions within a period of one month of passing of the order. He, therefore, prays that in these circumstances, the prayer of the petitioner be not accepted.

I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case.

Learned senior counsel for the petitioner showed the Aadhar card of the petitioner, according to which, his date of birth is 01.01.1941, therefore, he would be more than 77 years of age. Keeping in view the old age of the petitioner and especially when according to the medico legal report, there is no injury found on the feet of the complainant, although it is so argued that the injury which is a fracture on the tibia is attributable to the petitioner but that would be the question to be decided by the trial Court especially in the light of the role attributed to co-accused Ankush, referred to above, the present petition is allowed and the petitioner is directed to be

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released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

Any observation made herein-above shall have no bearing on the merits of the case during the trial.

(AUGUSTINE GEORGE MASIH)
JUDGE

16th March, 2018
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No