

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

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CRM-M No.13778 of 2018

Date of Decision: April 17th, 2018

Sukhdev @ Sukha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Apoorv Garg, Deputy Advocate General, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.15 dated 03.02.2017 registered under Sections 148, 149, 302, 341 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes Act (Prevention of Atrocities), Act, 1989, at Police Station Guhla, District Kaithal.

It is the contention of learned counsel for the petitioner that the petitioner is alleged to be armed with a *sotta* with which he had caused injuries on deceased Sikandar but no recovery has been effected of any *sotta*, what has been recovered is a *gandasi*, which is alleged to have been used from the reverse side for causing injury on the stomach which resulted in rupture of the spleen, which ultimately became cause of death of Sikandar. He contends that these allegations are not substantiated as there is no allegation with regard to the factum of the petitioner being armed with a *gandasi*. His assertion is that out of the 13 accused named in the FIR, 11 persons have been found to be innocent, although challan has been presented against seven including two, who have been named in the FIR.

The remaining five are those persons, who are not even named in the FIR.

His assertion is that the petitioner is in custody since 02.03.2017. Out of 28 witnesses, one witness has been examined till date and the trial is not likely to conclude soon with the petitioner already having completed more than 1 year and 1 month in custody, concession of bail be granted to the petitioner as four other co-accused of the petitioner have already been granted the benefit of bail.

Counsel for the State, on the other hand, contends that the injury which is as per his confessional statement has been caused by the petitioner on the stomach but when confronted with the MLR followed by postmortem report, there is no corresponding injury on the stomach, however, he asserts that the petitioner has himself got recovered the *gandasi* and has also admitted using it from the blunt side for causing the injury. The other assertions of the counsel for the petitioner could not be disputed, on instructions from ASI Sumer Singh, Police Station Guhla, District Kaithal.

Having considered the submissions made by the counsel for the parties and keeping in view the above facts and that the co-accused of the petitioner have been granted the concession of bail and also that the petitioner is in custody for the last more than 13 months, with the trial not likely to conclude soon in near future as only one witness has been examined out of 28 nominated, the present petition is allowed.

Petitioner is directed to be released on bail to the satisfaction of the trial Court.

April 17th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No