

CRM-M-13842-2018

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

CRM-M-13842-2018

Date of Decision: 16th April, 2018

Bhupinder Singh

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Deepak Bhardwaj, Advocate,
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

Mr. Ramandeep Singh, 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.185, dated 24.11.2016, registered at Police Station Sadar Samana, under Sections 302, 148, 149 and 201 of the Indian Penal Code.

It is the contention of the learned counsel for the petitioner that the petitioner was arrested in this case on 14.12.2016 and is in custody since then. Referring to the post-mortem report, counsel contends that no injury has been found on the person of the deceased and it is opined that the possibility of death in the case can be because of vasovagal shock due to stressful conditions at the site and time of alleged incidence of assault cannot be ruled out. He contends that when no injury has been found on the

body of the deceased, the observations of the Board of Doctors cannot be taken to be gospel. In any case, he asserts that out of total 18 prosecution witnesses, only 4 have been examined till date including the complainant and doctor. Counsel contends that as per the allegation against the petitioner, he is stated to be armed with wooden stick, which has been used for causing injuries on the person of deceased-Satnam Singh, however, no injury has been found on the body of the deceased. He, therefore, contends that the allegations made against the petitioner are false and the petitioner may be granted the concession of regular bail as the trial is not likely to conclude soon.

On the other hand, counsel for the State vehemently argued that in the cause of death column, specifically it has been attributed and stated that the cause of death is alleged incidence of assault, which resulted in stressful condition at the site and therefore, vasovagal shock. His further contention is that as per the allegation of the eye-witnesses, sticks were used not only by the petitioner but by the other co-accused also for causing injuries on the person of the deceased but he could not dispute the fact that no external mark injury has been found on the person of the deceased.

Counsel for the complainant has asserted that it is not a stray incident. Prior to the registration of the present FIR, there were two other FIRs against the petitioner and other co-accused, one of which is FIR No.104 dated 15.05.2014 and another is FIR No.52 of 2015, under Section 379 of the Indian Penal Code. He, therefore, prays that the petitioner be not granted the concession of regular bail.

I have considered the submissions made by the counsel for the parties.

Keeping in view the facts that no external injury has been found on the body of the deceased, the allegation that sticks were used by the petitioner and others for commission of offence is a question of evidence to be led before the trial Court, the petitioner is in custody since the date of his arrest i.e. 14.12.2016 and only 4 prosecution witnesses have been examined till date out of the total 18 and therefore, the trial is not likely to conclude soon, the present petition is allowed. The petitioner is ordered to be 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 in any manner.

(AUGUSTINE GEORGE MASIH)
JUDGE

16th April, 2018
Harish

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