

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

CRM-M No.14283 of 2018

Date of Decision : 20.04.2018

Mukesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM :HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Sumit Sharma, Advocate
for the petitioner

Mr. Manish Bansal, Dy. Advocate General, Haryana
for the respondent-State assisted by
ASI Sanjay Kumar.

SUDIP AHLUWALIA, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail on behalf of the petitioner in case FIR No.0537 dated 15th December, 2017, registered under Sections 148, 149, 323, 341, 307, 506 of the Indian Penal Code (for short, 'the IPC') and Sections 201 and 325 of the IPC (added later on) at Police Station Ambala City, District Ambala.

2. Mrs. Kiran Bala Jain, Advocate has put in appearance on behalf of the complainant and filed his Power of Attorney today in Court; Be kept on record.

3. The petitioner was arrested on 15th December, 2017.
4. The specific allegation against the petitioner in the FIR is reproduced below :-

“That Mukesh S/o Tarsem Caste Kashyap R/o Village Akalgarh who was carrying 'tomahawk' in his hands attacked my brother on his head...”

5. It is therefore seen that there is a direct allegation of the petitioner having attacked the victim with a sharp edged weapon.
6. MLR of the victim as available on record however does not disclose any cut injury nor the usage of any sharp edged weapon.
7. In seeking to oppose the bail application, Ld. Counsel for the complainant has shown a video recording of the aforesaid occurrence, which is stated to have been videographed by some passer-by. This Court has carefully seen the said recording.
8. Undoubtedly, the petitioner is seen to repeatedly attack the victim on the road side along with his accomplices. But the weapon of offence is clearly seen to be a wooden rod.
9. In the given circumstances, while holding that undoubtedly the petitioner appears to have been involved in the act of violence upon the victim, nevertheless the allegations made against him in the FIR do appear to be in excess of his actual role

as seen in the video.

10. In the given circumstances, considering the long detention undergone by the petitioner, he may be released on bail to the satisfaction of the Ld. Trial Court concerned.

11. It is however made clear that the Ld. Trial Court shall come to its independent decision in the matter without being influenced in any manner by any of the observations put on record here, and shall be at liberty to see the video recording, which is said to be a part of the challaned documents with even better technology, if so helpful to the prosecution.

12. Disposed off.

April 20, 2018

Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No