

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

CRM-M No. 29065 of 2018

Date of decision : 26.11.2018

Varinder Kumar @ Bunty Bajwa

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. Amit Mehta, Senior DAG, Punjab.

Mr. N. S. Dadwal, Advocate for the complainant.

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DAYA CHAUDHARY, J. (Oral)

Petitioner Varinder Kumar alias Bunty Bajwa has approached this Court by way of filing the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.276 dated 04.10.2017 under Sections 307/452/326/506/148/149 of the Indian Penal Code, 1860 as well as Sections 302/201 IPC (added later on), registered at Police Station – Daba, Distt. Ludhiana, during the pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. As per the allegations in the FIR, the petitioner has been shown to be armed with *Dah* and he gave a *Dah* blow on the person of Bittu Kumar, which hit on the

backside of his head but that injury has been declared simple. Learned counsel also submits that except this injury, no other injury has been attributed to the petitioner which has been caused to the deceased. Petitioner is in custody since 06.10.2017. Investigation has been completed and challan has been presented in the Court. There are total 22 prosecution witnesses and not even a single witness has been examined so far.

Learned State counsel has not disputed the period of custody undergone by the petitioner as well as the stage of the trial. However, he has opposed the submissions made by learned counsel for the petitioner on the ground that for offence punishable under Sections 148 and 149 IPC, specific role is not to be seen.

Learned counsel for the complainant has also opposed the submissions made by learned counsel for the petitioner contending that intention of the petitioner is clear as he caused injury to the injured after entering into the premises where the incident had occurred. He also submits that mere presence is sufficient for attracting the offence.

Heard learned counsel for the petitioner as well as learned State counsel and have also gone through the FIR and other documents available on record.

By considering the period of custody undergone by the petitioner *i.e.* since 06.10.2017 and the role of the petitioner that he has caused injury to the injured and not to the deceased, which is simple in nature; even a single prosecution witness has not been examined so far, the present petition is allowed and the petitioner is directed to be released on

regular bail on furnishing adequate bail/surety bonds to the satisfaction of the trial Court.

26.11.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No