

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

**Criminal Misc. No. M-32694 of 2018
Date of decision: 03.10.2018**

Naresh

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana
for the respondent-State.

Mr. J.S. Mehndiratta, Advocate
for the complainant.

Daya Chaudhary, J. (Oral)

This petition has been filed by petitioner-Naresh under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.90 dated 23.06.2017 registered under Sections 302, 307, 323, 324 read with Section 34 of Indian Penal Code at Police Station GRP Faridabad (District GRP Ambala Cantt.) and the charges framed under Sections 302, 307, 298, 323, 324, 341 read with Section 34 IPC and Section 145 of the Railways Act.

Learned Senior Counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas he was not named in the FIR. Even no identifying mark was there to establish the identity of the petitioner in commission of offence. Learned senior counsel further submits that no offence is made out under Section 302 IPC as initially, a minor scuffle took place in the coach of local train, which was going from Delhi to Mathura. The victim party came out from the coach of the train at

Tuglakabad Railway Station and thereafter, they called their friends and family members on mobile and gathered at the next station i.e., Ballabgarh Railway Station. It was only the complainant party, who gave beatings to the passengers travelling in the coach. As per allegations levelled in the FIR, the petitioner took out a kitchen knife from his bag and inflicted injuries on the deceased. The petitioner himself received injuries on the head and was also medically examined. As per statement of Javed Khan and Ved Parkash, the petitioner was in injured condition when they met him, which shows that the complainant party caused injuries to the petitioner. Whatever the petitioner has done, he has done in self-defence. The injury, which was proved to be fatal was on non-vital part of the body and the deceased died due to excessive bleeding. Learned senior counsel also submits that in spite of giving specific directions by this Court, the trial has not been concluded within a period of five months, which is clear from *zimni* order [Annexure P-5 (colly)]. The delay is there on the part of the prosecution witnesses as they are not appearing before the trial Court in spite of issuing warrants against them. Learned senior counsel also submits that complainant-Jalaluddin approached this Court by way of filing CWP No.24104 of 2017 for transfer of investigation to CBI, which was dismissed vide order dated 27.11.2017. Complainant filed LPA No.2296 of 2017 wherein notice of motion was issued on 05.12.2017 and a direction was issued to the trial Court to adjourn the case beyond the date fixed by this Court. Ultimately, LPA was also dismissed by this Court vide order dated 06.03.2018. Thereafter, complainant filed SLP (Criminal) No.8794 of 2018 before Hon'ble the Apex Court and vide order dated 19.03.2018, further

proceedings before the trial Court have been stayed and no particular date has been given. The petitioner has undergone custody of more than one year as he is in custody since 08.07.2017. At the end, learned senior counsel for the petitioner submits that no purpose would be served by keeping the petitioner in custody as co-accused of the petitioner, namely, Rameshwar Dass @ Rameshwar Dayal has been released on regular bail by this Court vide order dated 28.03.2018 passed in Criminal Misc. No. M-9968 of 2018.

Learned State counsel as well as counsel for the complainant have not disputed the custody period and the release of co-accused- Rameshwar Dass @ Rameshwar Dayal on regular bail by this Court but opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of the offence.

Heard arguments of learned senior counsel for the petitioner, learned State counsel as well as counsel for the complainant and have also perused the contents of the FIR and other documents available on the file.

It is not disputed that vide order dated 06.10.2017 passed in Criminal Misc. No. M-37007 of 2017, a direction was issued by this Court to the trial Court that the case be tried expeditiously. Even a specific direction was issued for framing of charges and prepare a schedule for conducting the trial on day-to-day basis and complete the same within a period of five months but the trial has not been concluded so far. Now the matter is pending before Hon'ble the Apex Court and proceedings before the trial Court have been stayed and no next date has been given. Co-accused of the petitioner, namely, Rameshwar Dass @ Rameshwar Dayal has been released on regular bail by this Court.

Accordingly, the present petition is allowed and petitioner-Naresh is directed to be released on interim bail on his furnishing bail/surety bonds to the satisfaction of the trial Court subject to the following conditions: -

- (i) The petitioner shall not enter the District of Faridabad including the village where the complainant and other witnesses reside, till the trial is completed;
- (ii) The petitioner shall report to the police station where he shall reside, outside District Faridabad, every week and the local police shall keep surveillance on him;
- (iii) The concerned Superintendent of Police, Faridabad shall extend police protection to the witnesses and the complainant, if not already provided;
- (iv) The petitioner shall deposit his passport, if he possesses with the trial Court;
- (v) The petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well.

It is also made clear that the interim bail has been granted till the decision of SLP by Hon'ble the Apex Court and on decision of SLP, the petitioner has to surrender before the concerned authorities and thereafter, he is at liberty to move application for regular bail.

03.10.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes