

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

**Crl. Misc. No.M-36657 of 2018 (O&M)
Date of Decision: August 30, 2018**

Deepak

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Surinder Gandhi, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 729 dated 23.10.2017 registered for the offences punishable under Sections 148/149/302/323/212 IPC at Police Station Rohtak City, Rohtak.

Heard.

Notice of motion.

On asking of the court, Mr. Amrik Narwal, DAG, Haryana who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

As per case of prosecution, occurrence took place on 23.10.2017 at about 6.30 p.m. when accused Sonu alias Aryan, Mani son of

Ashram where complainant Ankur and Keshav were present. They started giving slaps and fist blows to them. In the meanwhile Rahul and Vishal also reached there and tried to intervene to save Ankur and Keshav. On this Happy took out a knife and caused injuries to Rahul and Vishal. Sachin, Manni and Sonu kept on giving slaps and fist blows to all the four i.e. Ankur, Keshav, Rahul and Vishal. Raula was raised by the complainant and other victims which attracted many people to the spot, at which all the four assailants ran away from the spot. Rahul and Vishal when taken to the medical college Rohtak, died because of the injuries suffered by them.

Learned counsel for petitioner submits that the petitioner was not named in the FIR. It was at later stage on 24.10.2017 i.e. on the next date of occurrence that a supplementary statement of complainant was recorded wherein presence of petitioner was disclosed. It is not a case where petitioner was not known to the complainant party as complainant and petitioner both are resident of Indra Colony, Rohtak as such there could be no mistake in giving his presence in the first version which was recorded on 23.10.2017.

Learned State counsel submits that name of petitioner has come in the supplementary statement of complainant and also in the statement of Keshav (injured) which was also recorded on 24.10.2017. Even father of deceased Rahul, namely, Hawa Singh has also named the petitioner as per information supplied to him by the deceased.

Admittedly, parties were known to each other being resident of same area, as such there could be no dispute about the identity of petitioner, who was not named by Ankur in his first version given to the police. The

fact that name of petitioner has come in the supplementary statement which was recorded on the next day of occurrence and not in the FIR is a fact to be seen during trial, but keeping in view above facts and that he is in custody since 21.1.2018; investigation of the case is complete and challan has been present in the court, but without expressing any opinion on merits, the present petition is allowed. Petitioner Deepak son of Satyavan is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.

August 30, 2018
deepak

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***