

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36046-2017

Date of decision: 04.04.2018

Rohit @ Bunty

...Petitioner

V/s.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. S.K. Panwar, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana with
ASI Devinder Kumar.

SUDIP AHLUWALIA, J. (Oral)

This is a petition for regular bail under Section 439 Cr.P.C. on behalf of the petitioner, in case FIR No.363 dated 09.06.2016, under Sections 148, 149, 323, 341 and 302 of the IPC, registered at Police Station Sadar Palwal, District Palwal, Haryana (Annexure P-1).

The record shows that after having sought an opportunity to verify about the contents of the complainant's application dated 09.09.2016 on 05.12.2017, today is the third consecutive date on which no steps have been taken from the complainant side. Consequently it becomes clear that the contents of the aforesaid application are un-rebutted. It is however submitted by Ld. Counsel for the State that the application in question happens to be actually a prayer for transfer of investigation from the local Police Station to the CIA Palwal, as the complainant had expressed his lack of confidence in the local police to investigate the FIR properly. Ld. State counsel further informs the Court that in pursuance of the aforesaid application the matter was actually transferred to the CIA Palwal for further

investigation which was conducted, and after completion of which challan against several accused persons including the present petitioner has been submitted. Hence, the contention on behalf of the State is that non-reference to the alleged role of the petitioner or for that matter any other accused person named in the original FIR, in the subsequent transfer prayer dated 09.09.2016 cannot be taken to mean that the original allegations against the concerned un-referred accused persons became somehow compromised.

There is some weight in the aforesaid contention raised from the State side. However, the conspicuous non-reference to the role of the petitioner in the aforesaid application coupled with the limited nature of his involvement in the occurrence as mentioned in the original FIR would appear to put him on a different footing from co-accused Sunil who is alleged to have directly fired at the deceased victim, and from whom even the fire-arm was subsequently recovered. The role imputed to the present petitioner is of having been one among the many other persons armed with lathis at the relevant time, but the Post-Mortem Report goes to show that death of the victim had occurred due to the injuries found on the “vital body parts” which were ante mortem in nature. The most vital injuries were on the skull/head of the victim which was the direct target of firing imputed to accused Sunil. Other similar injuries found on “non-vital” body parts such as on the knee of the victim, certainly did not cause his death according to the Post-Mortem Report.

In the circumstances considering the long detention undergone by the petitioner who was arrested on 07.05.2017, and the fact that no actual

act which resulted in death of the victim is attributed to him in the original FIR, and also considering that his alleged involvement was not even referred to in the subsequent application of the complainant dated 09.09.2016, at this stage he is ordered to be released on bail to the satisfaction of Ld. Trial Court with a further direction to report at a concerned police station once a week during pendency of trial.

It is made clear that no observation made in this order shall cast any reflection upon the merits of the case before the Trial Court, which shall come to its independent decision without being influenced by any such jurisdiction.

Disposed off.

April 04, 2018
Divyanshi

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No