

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

CRM-M-39993-2018 (O&M)

Date of Decision:-14.12.2018

Balihar Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashish Gupta, Advocate for the petitioner.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioner seeks grant of regular bail in respect of a case registered vide FIR No.272 dated 8.5.2017 at Police Station Assandh, District Karnal under Sections 148, 149, 302, 307, 323 and 506 of Indian Penal Code, 1860, wherein Section 216 IPC and Section 25 of Arms Act, 1959 were added later on.

The FIR was registered at the instance of Rahul, wherein it has been alleged that on the day of occurrence when he alongwith his younger brother Ajay and his uncle's son Rajat was present at the shop of Balihar Singh, then an altercation took place between his brother Ajay and Maghar @ Mukadar Singh upon which Balihar Singh, Hari Singh, Deep @ Mattu and 7-9 boys in connivance with each other, who were armed with 'sticks' and 'knives' attacked Ajay. It is alleged that Balihar Singh exhorted the other accused to teach Ajay a lesson and upon which they starting beating the complainant and his two companions. It is alleged that three of the boys

caught hold of complainant's brother Ajay and one gave a 'knife' blow in his abdomen. When the complainant and his uncle's son Rajat tried to rescue him the said accused caused injuries to them as well with the help of 'sticks' and 'knives'. It is further alleged that Deep @ Mattu gave a 'knife' blow on complainant's head and back and all the accused attacked his uncle's son Rajat with 'sticks' and 'knives'. It is further the case of prosecution that Ajay on account of 'knife' blows succumbed to his injuries.

The learned counsel for the petitioner has submitted that the petitioner is not specifically attributed any 'knife' blow and that the 'knife' blow alleged to have been given to the deceased Ajay is attributed to "one boy", whereas in case the same had been inflicted by the petitioner it would have been specifically attributed to him as his name is otherwise specifically mentioned in the FIR.

On the other hand, the learned State counsel has opposed the petition by submitting that since a blood stained knife had been recovered at the instance of the petitioner, therefore, his complicity is clearly evident.

Having considered the rival submissions addressed before this Court and bearing in mind the fact that the 'knife' blow is not specifically attributed to the petitioner, who is otherwise named in the FIR and also that the petitioner has been behind bars since the last more than 1 year and 4 months and that the remaining five co-accused have already been granted bail, in my opinion, no useful purpose would be served by further detaining the petitioner behind bars especially since not even a single prosecution witness has been examined so far. The petition, as such, is accepted. The petitioner Balihar Singh is ordered to be released on bail on his furnishing

bail bonds/surety bonds to the satisfaction of learned trial Court/Chief
Judicial Magistrate/Duty Magistrate concerned.

This petition stands accepted accordingly.

14.12.2018
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No