

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

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CRM-M NO.42495 OF 2017

DATE OF DECISION: FEBRUARY 06, 2018

Rajesh

.....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Deepshikha Chauhan, Advocate,
for the petitioner.

Mr. Kuldip Sharma, DAG, Haryana,
for the State.

Mr. Sumeet Singh Deol, Advocate,
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The petitioner has filed the present petition for grant of regular bail in case FIR No.958, dated 01.12.2015, registered under Sections 148, 149, 302, 506 IPC, at Police Station Civil Lines, District Karnal.

It is the contention of learned counsel for the petitioner that no specific injury has been attributed to the petitioner. She further contends that even as per the prosecution, injury No.4, which is attributed to the petitioner, is on the back of right side of head, which has not been found to be fatal. The said injury has been identified as Injury No.4. She also contends that the recovery of sword has been shown to be effected from the petitioner. However, on an application moved by the prosecution under

Section 319 Cr.P.C., some additional accused were summoned by the trial Court, which order has been challenged before this Court and the proceedings before the trial Court have been stayed. She, therefore, contends that the petitioner is in custody since 11.12.2015 i.e. for more than two years and it cannot be said as to when the trial would conclude. Her further submission is that continuation of incarceration of the petitioner cannot be said to be serving any purpose, especially when the trial is not in progress. Prayer has, thus, been made for grant of regular bail.

On the other hand, learned counsel for the State as also counsel for the complainant have vehemently argued that apart from an injury on the right side of the head of the deceased, the petitioner has been attributed a *lalkara* and weapon of offence has also been recovered. They further contend that although the fatal injury is injury No.1 but the cumulative effect of the injuries has resulted in death of the deceased and may be, injury No.1 was in itself serious enough for causing death but the petitioner also has, to a great extent, contributed in the ultimate death of the deceased. However, they could not dispute the fact that the trial has been stayed by this Court and no progress is there.

Having considered the submissions made by counsel for the parties and on going through the records available, the fact remains that the petitioner has been attributed an injury with a sword on the right back side portion of the head, which ultimately has not been in isolation declared to be a fatal one. That apart, the petitioner is in custody since 11.12.2015 and the trial is not proceeding because of the stay granted by this Court in a case where summoning order has been challenged. Further, continuation of the petitioner in custody cannot be said to be in any manner conducive to the

case of the prosecution, especially when it is not known as to how long the trial is likely to take. Even six co-accused of the petitioner have been granted bail by this Court and one by the trial Court.

Keeping in view the above facts and circumstances of the case, the present petition is allowed. The petitioner is directed to be released on bail on his furnishing personal and surety bonds to the satisfaction of **Trial Court/Chief Judicial Magistrate/Duty Magistrate, Karnal.**

**February 06, 2018
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

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