

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-8298 of 2018
Date of Decision: April 26, 2018

Sumit

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Inderjeet Singh, Advocate
for the petitioner

Mr. Munish Sharma, AAG Haryana

Mr. Nitish Bhatia, Advocate
for the complainant

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 446 dated 29.11.2017, registered under Sections 148, 149, 323, 325, 341, 379-B, 120-B, 506 IPC and Section 25 of the Arms Act, 1959 at Police Station Farakpur, Yamuna Nagar.

Learned counsel for the petitioner submits that as per the contents of the FIR, brother of the injured person namely Ram Dayal was following the injured person on his own motorcycle and witnessed the incident. Yet, the petitioner was not named in the FIR. The alleged identification from the CD which was submitted to the prosecution at a later date is merely an attempt to frame the petitioner in this case because if Ram Dayal could identify the petitioner from the CD he could very well have identified him in the FIR since he witnessed the whole incident. Thus, the CD is no evidence against the petitioner. Only other evidence on record is the disclosure statement of a co-accused, which has no evidentiary value. The petitioner has been in custody since 01.01.2018. The investigation is complete and

the challan has already been presented. Thus, the petitioner would not be in a position to influence the investigation. Keeping him in custody indefinitely is not warranted and, therefore, the petitioner be released on regular bail.

Learned State counsel as well as counsel for the complainant opposed the prayer for bail on the ground that five injuries have been inflicted upon the injured person and all of them are grievous in nature. Both legs, an arm and both wrists of the injured person were fractured in the incident which shows that he was subjected to merciless beatings. The involvement of the petitioner is clearly established from the CD and, therefore, no case is made out for regular bail.

It is not in dispute that the investigation is complete and that the challan has already been presented. The evidence collected by the police till date against the petitioner appears to be tenuous. Learned counsel for the petitioner is correct in saying that if Ram Dayal could identify the petitioner from the CD, he could very well have identified him in the first instance and named him in the FIR as he was an eye witness to the incident. Having not done so a doubt is created and the benefit thereof must go to the petitioner.

In view of the above, the petition is allowed and the petitioner – Sumit is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

April 26, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No