

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

205

CRM-M-2298 of 2019

Date of decision: 28.03.2019

SUNNY @ SUDAMA

...PETITIONER

VS.

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Chaudhary, Advocate
for the petitioner.

Mr. Sukhdeep Singh Parmar, DAG, Haryana.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.100, dated 27.04.2018, under Sections 323, 34, 506 IPC, 1860 registered at Police Station Bhattu Kalan, District Fatehabad (Sections 148, 149, 302 IPC added later on). Subsequently the offence punishable under Section 302 IPC was also added as the victim namely Pawan Kumar succumbed to the injuries on 28.04.2018. The petitioner is stated to be in custody from 03.04.2018.

The FIR was recorded on the statement of Indra wife of Norang Lal wherein she stated that her son Pawan had gone to purchase some household articles at bus-stand Dhingsara and when he did not return, she went to the bus-stand Dhingsara to find him. Upon reaching there she saw Shiv Kumar S/o Jai

Kishan alongwith 2-3 other boys were giving beatings to her son with Dandas. Upon raising noise the assailants ran away and she took her son to hospital. On these allegations the FIR was registered for the offences punishable under Sections 323, 34, 506 IPC (Sections 148, 149, 302 IPC added later on).

Learned counsel for the petitioner contends that the petitioner Sunny @ sudama is not named in the FIR. It is contended that as per the version of the complainant, Shiv Kumar was accompanied by 2-3 persons. However, the police has filed challan against 8 accused persons. The trial Court has already extended the concession of bail to 4 accused persons. Attention of the Court is drawn to the fact that only a Danda has been recovered which does not contain any blood stains whereas, the weapons recovered from the other accused are blood stained. He has further referred to the testimony of complainant recorded by the trial Court as PW-1, wherein it is stated by complainant that four persons caused injuries to her son and only Shiv Kumar was named.

The prayer for bail is opposed by learned State counsel, who is assisted by ASI Sham Lal, on the ground that the offences are grave in nature and petitioner has participated in the crime. However, he is unable to dispute the fact that before the Court complainant had stated that there were four assailants and named Shiv Kumar. Counsel for the State has relied upon the identification of all the accused before the Court by complainant.

At this stage, learned counsel for the petitioner contends that such identification may not be significant

particularly, when initially in her examination-in-chief she has stated that four persons assaulted her son, but she has proceeded to identify 8 accused who were present in the Court.

Considering the above background and the stage of the trial which is likely to consume more time, as there are still 27 witnesses who remained to be examined further custody of the accused may not be justified. Therefore, without meaning any expression on the merits of the case, petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court Fatehabad.

The petition is allowed.

March 28, 2019
Poonam Sharma

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No