

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

**CRM-M No.2645 of 2019
Decided on: 15.07.2019**

Virender

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Vivek Sharma, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.312 dated 27.07.2016, for offence punishable under Sections 148, 149, 302, 323, 452, 506, 120-B of the Indian Penal Code (in short 'IPC') registered at Police Station Narnaund, District Hisar.

Counsel for the petitioner has submitted that the petitioner is not maintaining good health and he is in custody since 04.08.2016. Counsel for the petitioner has relied upon the medical report submitted by way of an affidavit of the Superintendent, Central Jail – I, Hisar, in which the following opinion has been given:-

“This is certified that as per the medical record

available at Central Jail-1, Hisar. Above said prisoner Virender s/o Khajan Singh (55 Yrs – Male) is follow up case of Pain at Inguinal region, Scrotum and Abdomen on & off for which he has been sending to G.H. Hisar for follow up regularly. He was adviced USG Inguino-Scrotal region and USG Impression was No typcal Pathology seen in both Inguinal region on dated 06 April 2019. Treatment was given by concerned expert at G.H. Hisar. He is hemodynamically stable at present.”

Counsel for the petitioner has further submitted that as per the allegations in the FIR, the petitioner along with 20 other co-accused had caused fatal injuries to deceased Baljit and Dalbir. Counsel for the petitioner has referred to the FIR to argue that no specific injury is attributed to the petitioner and subsequently, when the statement of the injured/eye-witness under Section 161 Cr.P.C. was recorded, even then no specific injury is attributed to the petitioner. Counsel for the petitioner has also relied upon the statement of PW3, to support his argument. It is further submitted that this witness has specifically stated that the incident has taken place due to the enmity regarding the election of Sarpanch as the complainant party did not cast their vote in favour of one Joginder. It is also submitted that the petitioner is not related to said Joginder and as per this witness, the petitioner is residing next door to the house of the complainant and in the light of the cross-examination of PW3, wherein he has stated that even on a previous occasion, the case is pending against the family of Khajan i.e. the father of the petitioner for causing injuries to the witnesses in the present case, and therefore, the defence of false implication is there. It is further argued that out of 29 prosecution witnesses, only 04 PWs have been

examined and after recording the examination-in-chief of the PW-4, the application was moved by the prosecution under Section 319 Cr.P.C. for summoning some additional accused, which was partly allowed and one accused was summoned and both the sides have filed the revision petitions challenging the said order.

Counsel for the petitioner has also relied upon the statement of PW4 – Sunita, who has stated that Joginder is the main conspirator behind this incident and therefore, the involvement of the petitioner is yet to be decided on the basis of the entire evidence.

Counsel for the State, on instructions from ASI Surjit Singh, assisted by counsel for the complainant has not disputed the factual position as per statement of PW-3 and PW-4 and affidavit of Medical Officer but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for a period of about 03 years; he is not maintaining good health as per the report of the Medical Officer as stated by the Superintendent, Central Jail – I, Hisar by way of filing an affidavit and also in view of the fact that no recovery of any weapon was effected from the petitioner and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate on the following conditions:-

(i) He will appear before the trial Court on each and every date and the trial Court will not entertain any application for exemption and in such eventuality, the regular bail granted to the petitioner shall stand cancelled

automatically.

(ii) He will not try to influence any of the prosecution witness and will not enter the village, where the complainant/witnesses are residing and it will be open for the prosecution to move an application in case the petitioners are found misusing the concession of regular bail.

(ARVIND SINGH SANGWAN)
JUDGE

15.07.2019
yakub

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