

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

CRM-M-8350-2019 (O&M)

Date of decision: 19.07.2019

Raghubir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. S. Kundu, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 405 dated 23.07.2018, registered under Sections 147, 149, 323, 302 and 506 of the IPC at Police Station Barwala, District Hisar.

Learned counsel for the petitioner has argued that as per the version given in the FIR, injured/witness Poonam wife of Ashok has stated that on 21.07.2018 at about 08.30 AM, she was standing outside her house in the street and her neighbour Mukesh @ Mota came on his bullock cart and parked the same in front of her house and threw mud of drainage on her and when she objected, he manhandled her and on that account, a dispute arose. Thereafter, Mukesh @ Mota went inside his house and after sometime, Mukesh carrying a *Zelli* (an agricultural equipment), petitioner also carrying a *Zelli* in his hand, one Ramdhan carrying a *lathi* in his hand, Raghubir having brick in his hand and wife of Mukesh also having brick in her hand came there and Mukesh and Rabhubir @ Raju straightway struck

their Zellis in the stomach and chest of Ram Parshad, father-in-law of the complainant, who was sitting in front of her house and when the *Jeth* of the complainant came to rescue Ram Parshad, Ramdhan with his *lathi* started beating him. It is further stated that thereafter, complainant and her sister Lilawati tried to rescue their family members, however, wife of Mukesh and Raghubir started beating them with their respective weapons. In the meantime, they raised hue and cry for help and the neighbours came there and rescued them.

Learned counsel for the petitioner submits that injured Ram Parshad was admitted to MAMC, Agroha and during treatment, he died after ten days.

Learned counsel for the petitioner has referred to the MLR of deceased Ram Parshad, wherein three injuries were reported, which were caused by a blunt weapon and injury Nos. 1 and 2 were referred to surgeon opinion and injury No. 3 was advised for X-ray and Ortho opinion.

Learned counsel for the petitioner has argued that as per the opinion of the forensic expert, the cause of death of Ram Parshad was on account of complications of injury Nos. 1 and 2 on the abdomen, which was sufficient to cause death in ordinary course of nature.

Learned counsel for the petitioner has further argued that on the basis of the solitary statement of eyewitness Poonam, the petitioner and co-accused Mukesh are attributed one injury each with the *Zelli* on the stomach and chest of Ram Parshad, whereas the same does not co-relate with the injury Nos. 1 and 2, which are reported to be lacerated wounds and abrasions and there is no incised wound and further the weapon used is blunt, whereas the weapons, allegedly used by the petitioner and co-accused

Mukesh, were sharp edged weapons.

Learned counsel for the petitioner has further submitted that the petitioner is in judicial custody since 02.08.2018 and it is a case of version and cross-version and it is to be decided during the course of trial as to which party was the aggressor party.

Learned counsel for the petitioner further submitted that only two prosecution witnesses, who are the official witnesses, have been examined so far and it will take a long time in conclusion of the trial.

Learned State counsel, on instructions from SI Kulbir Singh, could not dispute that complainant Poonam is the sole eyewitness and also could not dispute that forensic opinion given by the medical college as well as the injury as noticed in the MLR and postmortem report of deceased Ram Parsahd, who was aged about 68 years.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the custody period of the petitioner and also in view of the variations in the ocular version, given by the complainant, as well as medical version, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

19.07.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No