

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-8254 of 2019 (O&M)
Date of decision : May 23, 2019

Bhura

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. D.S.Matya, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

Petitioner Bhura has come up in this regular bail application under Section 439 Cr.P.C. in respect of case bearing FIR No. 100 dated 8.4.2017, under Sections 148, 149, 323, 325, 294, 354, 452, 302, 506 IPC, Police Station Bahin, District Palwal.

The facts that have been canvassed are that the present case was got registered on the statement of Bhagat Singh. In his complaint, the complainant alleges that on 7.4.2017 at 9.00 PM, wife of the complainant namely Suman along with Usha wife of Thaan

Singh were tying buffalo in Ghair when accused Bhura along with his co-accused non applicants Raj Kumar who were intoxicated abused them and when Usha stopped them from doing so, it is alleged that Bhura petitioner opened gate and along with him accused Raj Kumar entered into the Ghair. The complainant states that accused Bhura slapped Usha's chest and when Suman tried to stop them, Raj Kumar gave a punch on her face and her two upper teeth broke. Hearing the commotion family of the complainant was attracted and at which accused Bhura along with Raj Kumar gave abuses and went to their house and after some time accused Bhura along with accused Raj Kumar, Manoj, Daya Ram, Gopal, Azad, Moni, Shakuntala and Harwati armed with lathies, dandas and iron rods etc. came back and gave abuses to the complainant side and assaulted Chet Ram father of the complainant and some of the injuries were given on his head by accused Raj Kumar. Co-accused of the petitioner also assaulted the complainant side causing injuries to Rajwati, Girraj and Girraj Dharmender. The injured were rushed to the hospital where father of the complainant Chet Ram died.

Mr. D.S.Matya, learned counsel for the petitioner inter-alia contends that there is material diversion and contradiction in the ocular version and the medical evidence of the witnesses as it is initially claimed that two injuries had been caused on the head of the

deceased whereas the medical evidence has opined only single injury. It is contended that there is nothing suggestive to show that this injury was caused by petitioner Bhura or it was sufficient to cause death arguing that the petitioner is behind the bars since 8.5.2017 and the trial is not likely to be concluded in near future and that the own stand of the prosecution at different levels is suggestive of the falsehood and sought to draw the attention of the Court to the statement of the PWs made in the court at the trial.

Learned State counsel, Mr. Baljinder Virk, DAG, Haryana has vehemently opposed the grant of the relief on the grounds that the petitioner happened to be principal accused who has given fatal injury on the head of Chet Ram and which as per the report of the post mortem caused the death of the deceased submitting that if the petitioner is allowed bail, there is every likelihood that he would stifle the trial.

Going through the medical opinion as per the post mortem report shows diffuse sub scalp hematoma over left parietal region as well as linear fracture on the left parietal bone with diffuse sub arachnoid hematoma and as per the opinion in the post mortem, the death has resulted because of shock due to head injury and its complications which could be possible in above mentioned circumstances. Thus, this is reflective of the material cause of death,

the over-all evidence that has been pointed out which was gathered during the course of investigations. This injury on the head of the deceased is attributed to the present petitioner as well. The mere fact that the petitioner is behind the bars since a long time is no extenuating circumstance. Keeping in view that the trial is under way, it would not be in the fitness of things to allow the bail. The present petition being without any merit stands dismissed.

May 23, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No