

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

CRM-M-40438-2018
Date of decision:29.01.2019

Vidya Devi and others

....Petitioners

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mrs. Baljit Mann, Advocate
for the petitioners.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioners seek grant of anticipatory bail in respect of FIR No.349 dated 16.10.2017 under Sections 148, 149, 323, 324, 452, 506 of Indian Penal Code, 1860, Police Station Nangal Chaudhary, District Mahendergarh wherein offences under Sections 307 and 302 of Indian Penal Code, 1860 came to be added later on 14.08.2018.
2. Dr. Anand Kumar Bishnoi, Advocate has put in appearance on behalf of the complainant and has filed power of attorney, which is taken on record.

3. The FIR in the present case was lodged at the instance of Umed Devi wife of deceased Subhash wherein it has been alleged that on 16.10.2017 her neighbours namely Manjeet and Hari Ram started breaking wall of the house of the complainant and when she objected to the same they entered into the house. It is alleged that accused gave beatings to Manoj, Subhash, Yogesh, Varinder and also to the complainant - Umed Devi. The accused Chhote Lal, Ishwar, Ajit, Surjeet, Sunil, Kavita, Vidya who were armed with axe and sticks had entered into the house of the complainant. It is alleged that while Hari Ram inflicted blow with axe on the complainant's head, Ishwar gave a blow with rod on the head of the complainant. Manjeet is stated to have given a blow with rod on the complainant's abdomen while the remaining accused are alleged to have pelted stones and are also stated to have given kick and fist blows to her. The complainant further alleged that her son Manoj was given beatings with sticks and that her husband who is handicapped was beaten up by the accused and so was Yogesh son of the complainant who is also handicapped.
4. Learned counsel for the petitioner has submitted that in fact the petitioners had been granted bail in the month of October-November, 2017 itself and that the deceased Subhash had been discharged from the hospital on the very next date of the occurrence but somehow he expired two dates after the occurrence. It has further been submitted that no injury either internal or external was found on the said dead body of Subhash and although an opinion of the Board of Doctors was

sought but no definite opinion with regard to the cause of death had been given by the Doctors. It has further been submitted that after about 10 months, the prosecution has chosen to add offences under Sections 307 and 302 of Indian Penal Code, 1860 on 14.08.2018, although there is no evidence to support the aforesaid allegations pertaining to murder/attempt to murder.

5. Opposing the application, learned State counsel assisted by learned counsel for the complainant has submitted that since the petitioners are specifically named in the FIR and that occurrence led to death of Subhash, no case for grant of bail is made out.
6. During the course of arguments, learned counsel for the complainant has submitted that in fact the petitioners have been threatening the witnesses and an application in this regard has been made to the Superintendent of Police, Narnaul.
7. Having considered rival contentions addressed before this Court and bearing in mind the fact that the petitioners had earlier been granted bail and as on date there is no definite opinion regarding cause of death so as to attribute the death to the petitioners, in my opinion, it is a fit case for grant of bail to the petitioners. Accordingly the petition is accepted and the interim directions issued vide dated 14.09.2018 by this Court are hereby made absolute subject to the condition that the petitioners would keep on appearing before trial Court regularly.
8. It is however made clear that in case it is found that the petitioners are misusing the concession of bail, it shall be open to the State to move an

application for cancellation of bail.

9. It is, further clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

29.01.2019
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No