

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

Criminal Misc. No. M-42945 of 2018
Date of decision: 14.03.2019

Bhupinder Dalal @ B.D.

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr.Partap Singh, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

Daya Chaudhary, J. (Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.302 dated 19.05.2017 under Sections 302/323/325/341/427/506/120-B and 34 IPC registered at Police Station Palam Vihar, Gurugram.

Learned counsel for the petitioner submits that the name of the petitioner was not mentioned in the FIR was registered against unknown persons. As per allegations in the FIR, the fracture was in the arm and leg of the injured (now deceased) but the same is not attributed to the petitioner. Learned counsel also submits that as per opinion of the doctor, deceased did not die due to injury allegedly given by the petitioner. As per statement made by the deceased before death to the police, he was not known to the petitioner and there was no motive against the petitioner to commit such offence. The petitioner was seen in the hospital where complainant died as

reflected in the CCTV footage but there was no reason to connect the petitioner with the commission of offence. Learned counsel also submits that the brother of the complainant/deceased appeared before the trial Court as PW2 and he has not supported the case of the prosecution. Head Constable Tejbir Singh appeared as PW5. In cross-examination, it has been stated that no recovery was effected in pursuance of disclosure statement made by the petitioner. Learned counsel also submits that no recovery of any weapon was effected from him. The petitioner is in custody since 24.05.2017. Out of total 22 prosecution witnesses, 17 witnesses have been examined and two witnesses have been given up. Still trial may take some time to conclude as not only statement under Section 313 Cr.P.C. is to be recorded but thereafter defence witnesses are to be recorded. However, all material witnesses have been examined.

Learned State counsel has not disputed the custody period but opposed grant of regular bail to the petitioner on the ground of seriousness of offence.

Heard the arguments of learned counsel for the parties and have also perused the contents of the FIR as well as other documents available on the file.

By considering the custody of approximately two years and also the facts that all the material witnesses have been examined; the brother of the complainant has not supported the case of the prosecution, out of total 22 prosecution witnesses, 17 witnesses have been examined and 02 witnesses have been given up; still the trial may take time to conclude the evidence of the remaining witnesses; statement of accused under Section 313 Cr.P.C. as well as defence witnesses are also to be recorded, no useful

purpose would be served by keeping the petitioner in custody, the present petition is allowed and the petitioner (Bhupinder Dalal @ B.D.) is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(DAYA CHAUDHARY)
JUDGE

14.03.2019
anju

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No