

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

Sr. No.214

CRM-M-43278 of 2018

DECIDED ON: January 14, 2019

ROSHAN LAL @ MIDHA

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashit Malik, Advocate, for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Saurabh Sharma, Advocate, for respondents No.2 & 3.

SUDHIR MITTAL, J. (ORAL)

This petition has been filed for cancellation of regular bail of accused Raju s/o Massadi and Mahavir @ Bhil s/o Bachna Ram.

FIR No.45, dated 05.04.2017 was registered at Police Station Rajaund, District Kaithal, under Sections 148, 149, 120-B, 323, 307 & 302 IPC on account of murder of one Shamsher Singh @ Pappu s/o Sube Singh. Vide order dated 14.09.2018, the learned Additional Sessions Judge, Kaithal granted bail to the aforementioned accused persons on the ground that the injury allegedly inflicted by Mahavir @ Bhil was not found on the body of the deceased person as per the postmortem report and no role was attributed to Raju by any of the complainant witnesses.

Learned counsel for the petitioner submits that the impugned order is factually incorrect. A perusal of the postmortem report Annexure

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(P-6) shows that infact an injury exists on the right hand of the deceased person. Further, perusal of statement dated 05.04.2017 of Sukhbir s/o Kora recorded under Section 161 Cr.P.C. shows that a specific role has been attributed to Raju.

Learned counsel representing the accused persons submits that although an injury exists on the right hand of deceased Shamsher Singh @ Pappu, the same is simple in nature and Sukhbir s/o Kora did not attribute any role to Raju when his statement was recorded at the inquest proceedings. Thus, his presence at the time of incident is rendered doubtful. Moreover, complainant has not attributed any injury to either Mahavir @ Bhil or Raju. Thus, the order of grant of regular bail is justified and does not deserve to be cancelled.

Taking an over all view of the statements of various witnesses examined by the complainant side, specific participation of aforementioned Mahavir @ Bhil and Raju in the murder of Shamsher Singh @ Pappu s/o Sube Singh, is doubtful. Thus, even though the impugned order is factually incorrect, the same is not liable to be set aside as the aforementioned accused persons are otherwise also entitled to grant of regular bail. There is no allegation that they have misused the concession of bail thus, I do not find any ground to interfere with the impugned order.

The petition is accordingly dismissed. However, nothing stated herein above shall be construed to be an expression of opinion on the merits of the case.

January 14, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No