

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

CRM-M No.45070 of 2018 (O&M)

Date of Decision: 22.01.2019

Kala @ Ghodu

..... Petitioner

Versus

State of U.T., Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Ms. Amarjit Kaur, Advocate for the petitioner.

Mr. Manish Jain, A.P.P., U.T., Chandigarh
for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition under Section 439 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) has been filed for grant of bail, pending trial, to the petitioner in case FIR No.33 dated 03.02.2017, under Sections 307, 302, 34 of the Indian Penal Code (*for short 'I.P.C.'*), registered at Police Station Sector 39, Chandigarh.

The case of the prosecution is that FIR No.33 dated 03.02.2017 was registered on the statement of one Satyawar (PW-9) regarding the injuries suffered by his brother-in-law Ashok, who later on died in the PGIMER, Chandigarh and consequently, Section 302, IPC was added. During investigation, PW 2-Sachin Chauhan was joined and made a statement that on 02.02.2017, when he was going to Village Dhanas via market of Sector 37, Chandigarh, then 5-6 boys were beating one boy. Some of them caught hold of the victim and the others were attacking with *Iron Rods* and *Slaggers*. On account of the incident, people gathered there

and thereafter, all the accused fled away from the spot in an Auto-rickshaw. This witness noted the registration number of the Auto-rickshaw as CH-04-L-8846, but could not intimate the police as he was not having any mobile phone. Thereafter, on 05.02.2017, PW-2 identified all the accused including petitioner in the presence of Investigating Officer and consequently, they were arrested.

It is contended by learned Counsel for the petitioner that petitioner has been falsely implicated in the present case and he is in custody since 05.02.2017. Further contended that report under Section 173 Cr.P.C. has already been submitted before the Court of competent jurisdiction and nothing is to be recovered from the petitioner, thus, he be released on bail.

On the other hand, learned Counsel for the U.T., Chandigarh opposed the present bail application on the ground that the offences are serious in nature and in case the petitioner is granted the benefit of bail, there are chances to hamper the trial.

Heard learned Counsel for the parties and perused the paper-book.

This Court, while deciding CRR No.3148 of 2018, has found that although PW-2 fully supported the prosecution case in his examination-in-chief and specifically implicated the petitioner for commission of offence charged, but during cross-examination, he resiled and while allowing the above revision, permitted the prosecution to cross-examine this witness. Therefore, in case, petitioner is released on bail, there are chances that he can won over the prosecution witnesses and the same shall hamper the trial.

Even otherwise, petitioner is seeking bail in the present case which is under Section 302, IPC and this is very serious offence and should not be taken lightly to maintain the rule of law.

In view of above, no case is made out to grant the concession of bail, pending trial, to the petitioner.

Accordingly, the present petition is dismissed at this stage.

January 22, 2019

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>