

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

**Criminal Misc. No. M-49709 of 2018
Date of decision: 07.02.2019**

Arvind Kumar @ Kundu

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. Sunil Sihag, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana
for the respondent -State.

Mr. Ketan Antil, Advocate for
Mr. N.S. Shekhawat, Advocate
for the complainant.

Daya Chaudhary, J. (Oral)

Petitioner-Arvind Kumar @ Kundu has filed the present petition under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.114 dated 08.09.2017 registered under Sections 148, 149, 302, 323, 458, 285, 460 IPC and Sections 25/27 of the Arms Act, 1959 at Police Station Nathusari Chopta, District Sirsa during pendency of the trial.

Learned senior counsel for the petitioner submits that as per allegations levelled in the FIR, the petitioner was named and was alleged to have given *lathi* blow on the left arm of one Vijender but said Vijender has not been medico legally examined and there is no MLR to prove the injury. Learned senior counsel further submits that the petitioner has not caused any injury to the deceased as injury with *lathi* has been given to injured not

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to the deceased. Learned senior counsel also submits that the cause of death has not been ascertained as Chemical Examiner's report has not been received so far. This fact has been observed in the order passed by this Court in Criminal Misc. No. M-19008 of 2018 filed by co-accused Roshan Singh, who has been released on regular bail on the ground that no opinion has been given about the cause of death as the report of Chemical Examiner is not available. The petitioner is in custody since 22.09.2017.

Learned State counsel has not disputed the custody period as well as release of co-accused Roshan Singh on regular bail but has opposed grant of regular bail to the petitioner on the ground that the petitioner cannot claim parity with co-accused whose name came only in the disclosure statement whereas the petitioner was named in FIR and present at the place of occurrence. Learned State counsel further submits that if offence under Sections 148 and 149 IPC are there, the individual role is not relevant.

Similarly, learned counsel for the complainant has also opposed grant of regular bail to the petitioner by reiterating the arguments raised by learned State counsel.

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

Admittedly, the cause of death has not been ascertained so far as FSL report has not been received. The petitioner is in custody since 22.09.2017. As per allegations levelled in the FIR, the petitioner has given *lathi* blow to one Vijender-injured, who has not been medico legally examined. The trial may take time to conclude and no purpose would be

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served by keeping the petitioner in custody.

Accordingly, the present petition is allowed and the petitioner (Arvind Kumar @ Kundu) is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court.

However, the petitioner is directed not to influence the witnesses or tamper with the evidence.

07.02.2019	(DAYA CHAUDHARY)
neetu	JUDGE
Whether speaking/reasoned	Yes
Whether Reportable	No