

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

CRM-M No. 54396 of 2018

Date of decision : 29.01.2019

Ravi Nain @ Bhola

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. S. K. Garg, Senior Advocate with
Mr. Naveen Gupta, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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DAYA CHAUDHARY, J. (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short - 'Cr.P.C.') for grant of regular bail to the petitioner in case FIR No. 490 dated 17.06.2018 under Sections 323, 34, 427 and 506 of the Indian Penal Code, 1860 (for short - 'IPC'), registered at Police Station – Saran, Faridabad (subsequently Section 307 IPC is also added), during pendency of the trial.

Learned Senior counsel for the petitioner submits that the FIR was registered after a delay of two days and that delay has not been explained. Learned Senior counsel further submits that in the opinion given by the doctor, it has not been mentioned that the injury attributed to the petitioner was sufficient to cause death in ordinary course of nature and no

offence is made out under Section 307 IPC. At the most, it can be a case under Section 326 IPC. Learned Senior counsel also submits that the petitioner is in custody since 12.07.2018. The complainant and injured have been examined. Now an application under Section 319 Cr.P.C. has been moved and the trial may take some time to conclude. No purpose would be served by keeping the petitioner in custody. Learned Senior counsel has also relied upon judgment of this Court in case ***Nand Singh Vs. State of Punjab 2007 (1) R.C.R. (Criminal) 801***, in support of his submissions.

Learned State counsel has not disputed custody period as well as opinion given by the doctor, but he has opposed the submissions made by learned Senior counsel for the petitioner for bail on the ground that the petitioner is the main accused who caused the injury which attracts provisions of Section 307 IPC.

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

At this stage it is a disputed question of fact as to whether the injury falls under Section 307 or 326 IPC. It shall be decided after appreciation of evidence to be led before the trial Court during course of the trial. By considering the custody of the petitioner since 12.07.2018 and also the fact that the complainant and injured have been examined; application under Section 319 Cr.P.C. has been moved by the prosecution and trial may take some time to conclude, no purpose would be served by keeping the petitioner in custody. Accordingly, present petition is allowed and the

petitioner is directed to be released on regular bail subject to furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

29.01.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No