

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-38818 of 2019 (O&M)

Date of Decision: 17.09.2019

Lakhi Ram and another

....Petitioners

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Saurabh Sharma, Advocate
for the petitioners.

Mr. Rakesh Gupta, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No.83 dated 22.03.2019 registered for offences punishable under Sections 148, 323, 324, 302, 427, 295-A and 120-B read with Section 149 of Indian Penal Code (for short, "IPC") at Police Station Cheeka, District Kaithal.

Heard.

Notice of motion.

On asking of the Court, Mr. Kuldeep Sharma, DAG, Haryana, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

As per case of prosecution, occurrence took place on 22.03.2019 in which several persons named in the FIR attacked the complainant, his father Shamsher and other persons in connection with dispute over digging of foundation of *Gurudwara*. Shamsher later on

succumbed to his injuries.

Learned State counsel assisted by learned counsel for the complainant on instructions from SI Subhash submits that there are 12 injured in this case and one death has taken place. A mob had attacked the complainant and injured 12 persons and presence of petitioners at the spot has also been stated by *ex sarpanch*, namely, Om Parkash on 23.03.2019 and by the complainant in his supplementary statement on 24.03.2019.

Learned counsel for the petitioners submits that petitioners have been named by *ex-sarpanch* Om Parkash and in the supplementary statement of complainant but no overt act has been attributed to them. *Danda* is alleged to have been recovered from possession of the petitioners. Even the injured in their statements have not stated about presence of petitioners. The police after completion of investigation has already presented challan against petitioners and several other persons in Court. Trial of the case will take considerably long time, as such, petitioners may be allowed regular bail.

At this juncture, learned State counsel submits that though, challan has been presented in Court but two accused are yet to be arrested.

Without expressing any opinion on merits of the case but taking note of the fact that petitioners were not named in the FIR; even in the supplementary statement no specific injury has been attributed to them; police after completion of investigation has already presented the challan and that conclusion of trial will take considerably long time, the present petition is allowed. Petitioners, namely, Lakhi Ram and Vijay are ordered to be released on regular bail on furnishing bail bonds and surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty

Magistrate, subject to following terms:-

- (a) The petitioners shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of their absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel their bail bonds and surety bonds and proceed to procure their presence in accordance with law. In that eventuality the petitioners shall have to apply for bail afresh.
- (c) They shall not leave the country without the previous permission of the Court.

September 17, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No