

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

**CRM-M-19209 of 2020 (O&M)
DATE OF DECISION : 05.08.2020**

Mahesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Gautam Diwan, Advocate,
 for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in case FIR No.505 dated 16.10.2019 under Sections 323/325/34 IPC (Section 307 IPC added later on) registered at Police Station Sector-53, District Gurugram,

2. As per allegations in the FIR, on 12.10.2019, a telephonic message was received in police station from Artemis Hospital, Gurugram that Raju @ Rajesh after getting injured in a clash, had been admitted in hospital. ASI Suresh reached said hospital, but the doctor declared the injured unfit for making statement. Again on 14.10.2019, HC Brij Mohan went to the hospital and met the doctor, who declared the injured fit for making statement but the injured Raju @ Rajesh stated that he is not in a position to make any statement and will get his statement recorded after two days. On 16.10.2019, when HC Brij Mohan once again went to the hospital, doctor again declared the injured unfit for making statement. One eye witness Manish met HC Brij Mohan there who handed over a complaint addressed to the SHO stating therein that on 12.10.2019 at about 7.40 PM, he and his friend Raju @ Rajesh were present

near CNG Pump, Sector-52/A, Gurugram. One tractor filled with garbage came and Raju @ Rajesh told the driver of the tractor not to empty the garbage there. Upon this driver of the tractor called Mahesh, owner of the tractor, who along with two other persons came there and started arguing with Raju @ Rajesh. Mahesh gave danda blow on the head of Raju @ Rajesh from behind, due to which he become unconscious. The complainant then called his friend Anil and both of them took Raju @ Rajesh to Anand Hospital, from where he was referred to some other hospital, after giving first-aid. On the basis of said complaint, FIR in question was recorded. Investigation was carried out. After opinion of the doctor, injury was found to be grievous and Section 307 IPC was thus added later on. The danda used in the occurrence was also taken in to possession.

3. Learned counsel for the petitioner contends that in reality, wife of the petitioner informed the police after the fight took place as her husband too was inflicted injuries. Police officials then came at the spot and took the petitioner also to hospital and told that other proceedings will be initiated later on. Thereafter, the petitioner was taken to Kirti Hospital, Gurugram by his relatives where he remained admitted from 12.10.2019 to 14.10.2019. In this regard, report No.4 dated 15.10.2019 was also registered at Police Station Sector-53, Gurugram, but no action was taken on the same.

4. Learned counsel for the petitioner further contends that there is delay of four days in lodging the FIR as the alleged occurrence took place on 12.10.2019 and the FIR was registered on 16.10.2019. He further submits that petitioner is in custody since 31.10.2019. Investigation in the case is already complete and challan has already been presented.

5. Notice of motion.

6. Mr. N. K. Banka, DAG, Punjab, who has joined proceedings on service of advance copy of the petition, appears and accepts notice on behalf of State of Punjab.

7. I have heard learned counsel for the petitioner, as also learned State counsel.

8. On a query of the Court, learned State counsel does not controvert that investigation is complete and challan has been presented. He further submits that no further custodial interrogation of the petitioner is required in the case.

9. From perusal of the record, it seems to be a case of aggression and counter-aggression. It is difficult to ascertain as to who was the aggressor and who was the defender, since both the parties indulged in the fight and got hurt in the process.

10. In view of the facts stated herein above, this Court is of the view that no useful purpose would be served by keeping the petitioner behind the bars since investigation is already over and challan has been presented. The petitioner is stated to be in custody since 31.10.2019. The trial is not likely to commence or conclude any time soon on account of current pandemic scenario caused by COVID-19.

11. In the premise, the instant petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/Illaq Magistrate/ Duty Magistrate.

August 5th 2020
shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No