

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
204 (PROCEEDINGS THROUGH V.C.)**

CRM-M-27973-2020

Date of decision: 21.09.2020

ISHA

...PETITIONER

V/S

STATE OF HARYANA

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rajesh Lamba, Advocate,
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana,
for the State.

Mr. Jamshed Ahmed, Advocate,
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this application is for grant of regular bail to the petitioner in FIR No. 88 dated 09.05.2020 under Sections 148, 149, 323, 324/506 IPC Sections 325, 326, 307 IPC (later on added) (Sections 379-B, 427 IPC deleted) registered at Police Station Utawar, District Palwal.

It is the contention of the learned counsel for the petitioner that the role as per the FIR, which has been attributed to the petitioner, is that he had caught hold of Hamid. No other overt act has been attributed to the petitioner. Petitioner has been falsely implicated in this case. Assertion has also been made that the petitioner has been arrested on 31.05.2020 and is in custody since then. The co-accused of the petitioner, who had been attributed simple injuries, have been granted the concession of bail by the trial Court, namely, Asru, Mustak, Jafu, Shabbeer and Safru. He,

therefore, prays that bail be granted to the petitioner as the challan stands presented but the charge could not be framed.

On the other hand, learned counsel for the State as well as the counsel for the complainant submit that there are nine injured persons in this case. Out of these nine injured, two have been injured badly. Injuries on the person of one of the injured fall under Section 326 IPC and the injuries on the person of Hamid fall under Section 307 IPC whereas the co-accused of the petitioner has given a *farsa* blow on the head of Hamid. Assertion has also been made that had it not been the petitioner, who had caught hold of Hamid, probably the said injured would not have suffered such grievous injuries. It is because of the petitioner that such an injury was received by the injured and, therefore, the concession of bail be not granted to the petitioner. The other factual assertions, as have been submitted by the counsel for the petitioner, could not be disputed by the counsel for the State as well as the counsel for the complainant.

I have considered the submissions made by the counsel for the parties.

According to the FIR, which has been registered, it is not in dispute that the petitioner had caught hold of Hamid and no other overt act has been attributed to him. It is true that the injury, which has been suffered on the person of Hamid, has been found to be one under Section 307 IPC but the same is not attributed to the petitioner rather it has been attributed to Deenu. Petitioner is in custody since 31.05.2020 and the co-accused of the petitioner including persons, who have given/attributed simple injuries, have been granted the concession of bail and the trial is not likely to conclude in near future because of the restricted working of the

Courts due to prevailing Covid-19 pandemic. Since the investigation is complete, further incarceration of the petitioner would not serve any purpose. The present petition is, therefore, allowed.

Petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate, Palwal.

Any observation made herein above shall have no bearing on the merits of the case during trial in any manner.

September 21, 2020

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No