

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

**CRM-M No. 43031 of 2019 (O&M)
Date of Decision:- 06.01.2020**

Moin Khan ...Petitioner

Versus

State of Haryana ... Respondent

CRM-M No. 48419 of 2019 (O&M)

Altaf Hussain ...Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Saleem Ahmed, Advocate,
for the petitioners.

Mr. Surender Singh, AAG, Haryana.

Mr. Devender Kumar, Advocate for
Mr. Surinder Dagar, Advocate,
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

Both the aforesaid petitions i.e. CRM-M No.43031 of 2019, titled Moin Khan Vs. State of Haryana and CRM-M No.48419 of 2019 titled Altaf Hussain Vs. State of Haryana have arisen from the same FIR. Facts are being taken from CRM-M-

43031 of 2019.

Petitioners seek regular bail in case bearing FIR No.222 dated 1.10.2018 under Sections 148, 149, 323, 341 and 506 IPC, 1860, offence under Section 307 IPC added later on, registered at Police Station Nagina, District Nuh.

The FIR came to be registered at the instance of Noor Mohammad, father of injured Sajid. As per the version of FIR, Sajid went missing and his mobile was found to be switched off. Thereafter, search of Sajid was made. One Alam son of Ahmad found Sajid in an unconscious condition about one kilometer away from the village. Sajid was taken to Civil Hospital Mandikheda and from there he was referred to Nallahad Medical College where he was treated. He gained consciousness at about 8:00 am on the next day and alleged that Nazar, Arjun, Altaf, Akram, Mohil, Muneb and Hmid in company of others have gave injuries to him by tiding with rope in the jungle. According to injured, an altercation took place in a cricket match.

Learned counsel for the petitioners submits that during the investigation, Nazar, Arjun, Akram and Hmid were found to be innocent and their names were dropped. However, in the application filed by the complainant under Section 319 Cr.P.C., Nazar, Hmid and Arjun have been summoned and *denovo* trial has started.

No specific injury has been attributed to the

petitioners. Alam has not been cited as prosecution witness by the prosecution nor his statement was recorded under Section 161 Cr.P.C. As per medical opinion, offence under Section 307 has been added on account of cumulative effect of all the injuries on the person of complainant.

Learned counsel for the petitioners further submits that the petitioner is in custody since 12.12.2018. Co-accused Muneb has been granted concession of regular bail by the High Court in CRM-M-14394 of 2019 vide order dated 18.09.2019 wherein it was observed that the weapon used in the commission of offence was blunt and most of the injuries on the person of injured are of abrasion and complaint of pain. Bail has been declined to the petitioner primarily on the ground of dismissal of bail application of Muneb by the Court of Sessions. Since the aforesaid Muneb has been granted bail by the High Court, therefore, the petitioner is also entitled for same relief on parity.

Learned counsel for the State duly assisted by learned counsel for the complainant submits that attempt has been made by the petitioner to mislead the Court on the strength of FIR No. 219 dated 29.09.2018 which was got registered against the injured and the offences under Sections 323, 354-B, 365, 376, 506 and 34 IPC 1860 as the said FIR was found to be baseless and cancellation report has been submitted to the Court of Illaqa Magistrate.

Having considered the submissions made by learned counsel for the parties, it can be noticed that for the occurrence dated 27.09.2018 the FIR came to be registered on 01.10.2018. Co-accused has already been granted bail. Petitioners are in custody since 12.12.2018. On account of acceptance of application under Section 319 Cr.P.C. *de novo* trial has to commence. Medical opinion of the Doctor would give rise to lawful consideration by the Court whether offence under Section 307 is *prima facie* attracted in the present case or not.

At this stage, without meaning anything on the merits of the case, it would be just and appropriate to grant regular bail to the petitioners.

Let the petitioners be enlarged on regular bail, subject to furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Nothing expressed hereinabove shall be construed to be an expression of any opinion on merits of the case.

Accordingly, this petitions are allowed.

06.01.2020

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**(Raj Mohan Singh)
Judge**

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No