

(2012) 02 P&H CK 0074

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. M-36298 of 2011 (O and M)

Parveen @ Binna

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Feb. 17, 2012**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Penal Code, 1860 (IPC) - Section 302, 307, 323, 34

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

Kanwaljit Singh Ahluwalia, J.

Present petition has been filed u/s 439 Cr.P.C. praying for grant of regular bail to the petitioner in a case arising out of FIR No. 635 dated 01.11.2010 registered at Police Station Chandni Bagh, Panipat under Sections 307, 323 and 34 IPC, during pendency of the trial. It is stated that offence u/s 302 IPC was added later-on.

2. The petitioner had earlier approached this Court for grant of bail, however, a Coordinate Bench of this Court had dismissed the petition as withdrawn with liberty to file it afresh after recording the statement of Kaushalya.

3. Counsel for the petitioner states that now the statement of Kaushalya has been recorded. In her testimony she has stated that hearing noise of quarrel she was attracted to the spot. At that time, four persons namely Rajan and Mannu sons of Chuni Lal, Bina @ Bijender son of Jogi Ram and Binnu @ Parveen son of Daya Nand were present at the spot. She alleged that Rajan inflicted a knife blow in the abdomen of her son Puneet, Mannu inflicted a blow with an empty bottle on the head of Puneet, accused Bina @ Bijender inflicted a Saria (iron rod) blow on the face of Puneet, whereas Binnu @ Parveen (the present petitioner) inflicted fist and kick blows to Puneet.

4. Counsel for the State has produced the medico legal report of Puneet. The Medical officer has found only three injuries on the person of Puneet. Injury No. 1 is two lacerations 1 cm x 0.5 cm parallel to each other. This injury is attributed to Mannu. Injury No. 2 is a stab wound of 2 cm x 1 cm in the abdomen. This injury is attributed to Rajan. Whereas injury No. 3, which is bleeding from nose, is attributed to Bina @ Bijender.

5. So far as the petitioner is concerned, he is stated to have given fist and kick blows. No corresponding injury has been found in the medico legal report. Counsel for the State has submitted that injury No. 2 attributed to Rajan has been opined to be the one which was sufficient to cause death in the ordinary course of nature.

6. Considering that the injury attributed to the petitioner has not been found in the medico legal report and the fact that the petitioner is in custody since 3rd November, 2010, this Court is of the opinion that whether the petitioner shared common intention falling within the ambit of Section 34 IPC with his co-accused, is a moot point which will be determined during the course of trial. Therefore, further detention of the petitioner in the present case is not warranted.

7. Accordingly, the present petition is accepted and the petitioner is ordered to be released on regular bail, during pendency of the trial, to the satisfaction of Chief Judicial Magistrate, Panipat.