

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

**CRM-M-16297 of 2015(O&M)
Date of Decision: 7.7.2015**

Shehbaj Singh @ Shahu

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. S.K.Gupta, Advocate
for the petitioner.

Mr. R.S.Athwal, Advocate
for the complainant.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks bail pending trial in FIR No. 34 dated 6.3.2014 registered under Sections 302/482/120-B/148/149 IPC and Sections 25/27/54/59 of the Arms Act, at Police Station Model Town, Hoshiarpur.

Notice to the Advocate General, Punjab.

On the asking of the Court, Mr. K.D.Sachdeva, Additional A.G. Punjab, accepts notice.

Learned counsel for the petitioner submits that neither the petitioner was named in the FIR, nor any recovery was effected from him. Since the petitioner was not named in the FIR, there was no scope of levelling any allegations against him. He further submits that the petitioner has been falsely implicated in the present case. He concluded by submitting that petitioner is inside the jail for the last more than 3 years and since the prosecution evidence has just started, conclusion of trial will take long time. In support of his contentions, learned counsel for the petitioner

places reliance on a judgment of the Hon'ble Supreme Court in Husna Vs. State of Punjab, 1996 (1) RCR (criminal) 657. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Surinder Singh, submits that call details of the mobile used by the petitioner have been duly established on record to show his presence as well as active role played by him in the commission of crime. He further submits that since the charge has already been framed and 1 PW has already been examined, trial is not being delayed by the prosecuting agency. He prays for dismissal of the present petition.

Learned counsel for the complainant vehemently contended that petitioner was the main accused in the commission of crime, that is why offence under Section 120-B IPC has been alleged against the petitioner. He also refers to the earlier order passed by this Court whereby similar petition moved on behalf of petitioner bearing CRM-M-38162 of 2014 was dismissed as withdrawn on 20.2.2015. Thereafter, there is no change in the circumstances and the present petition is liable to be dismissed.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has not been found entitled for the concession of bail pending trial. It is so said, because active participation of the petitioner has been alleged. Mobile used by the petitioner has also been recovered.

So far as the judgment relied upon by the learned counsel for the petitioner is concerned, there is no dispute about the law laid down therein. However, on a careful perusal of the cited judgment, the same has not been found of any help to the petitioner, being

clearly distinguishable on facts.

Further, report under Section 173 Cr.P.C. has been presented and charge has also been framed. Next date before the learned trial court for recording the prosecution evidence is 10.7.2015. Thus, there is no delay in the trial.

In view of the above and without commenting anything further on the merits of the case, lest it should prejudice the rights of either of the parties, no case for bail pending trial is made out.

Dismissed.

(RAMESHWAR SINGH MALIK)
JUDGE

7.7.2015
Ak Sharma