

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

Criminal Misc. No.M-35380 of 2014 (O&M)
Date of Decision: January 13, 2015

Virender @ Doctor

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Akashdeep Singh, Advocate,
for the petitioner.

Mr.Pawan Jhanda, AAG, Haryana.

Naresh Kumar Sanghi, J.

CRM-1087-2015

Prayer in this application is for placing on record
Annexures P-7 and P-8.

Allowed as prayed for.

Annexures P-7 and P-8 are taken on record.

CRM-M-35380-2014

Prayer in this petition, filed under Section 439,
Cr.P.C., is for grant of regular bail to the petitioner, Virender @
Doctor, who has been booked for having committed the
offences punishable under Section 302 read with Section 34, IPC
and Section 25 of the Arms Act, in a case arising out of FIR
No.100, dated 22.05.2008, registered at Police Station, Badhra,
District Bhiwani.

Learned counsel contends that as per initial prosecution case, which was registered in the FIR at the behest of Ashok Kumar (PW6), on the intervening night of 21/22 May, 2008, Harish @ Dholia and Lillu Ram armed with pistols entered into his house and committed the murders of Daya Ram and Chhota Devi. The said incident was witnessed by Ashok Kumar (PW6) and his brother Pawan Kumar (PW7). He further contends that after arrest Harish @ Dholia and Lillu Ram were declared innocent by the police. Ram Kishan @ Leela was arrested by the police of Police Station, Bhiwani, in an Arms Act case on 26.10.2008. He further contends that during his interrogation, he suffered the disclosure statement that on the intervening night of 21st and 22nd May, 2008, he (Ram Kishan) along with Satish @ Shakti, Sunil @ Raja, Virender @ Doctor (petitioner), Balraj, (a proclaimed offender) and Rajinder @ Tiwari (since deceased) armed with firearms had visited the house of Daya Ram and Chhota Devi and committed their murders. Ram Kishan @ Leela, Satish @ Shakti, and Sunil @ Raja were arrested and charge-sheet for their prosecution for the offence punishable under Section 302 read with Section 34, IPC, was presented. After due trial, learned trial court acquitted them for the commission of the offence punishable under Section 302 read with Section 34, IPC. He further submits that when the petitioner came to know about the pendency of the

present case then he surrendered before learned Area Judicial Magistrate on 31.05.2014 and since then he is behind the bars. After investigation, the charge-sheet (report under Section 173, Cr.P.C.) has also been filed against the petitioner. The case has been committed to the Court of Session in which Ashok Kumar (PW6) and Pawan Kumar (PW7) have already been examined. He also pointed out that during course of initial investigation, the statement of Pawan Kumar (PW7) was recorded by the police, in terms of Section 161, Cr.P.C., in which he too stated to the police that murders of Daya Ram and Chhota Devi were committed by Harish @ Dholia and Lila Ram but during their depositions before the Court, the said witnesses improved their version and deposed in consonance with the disclosure statement suffered by Ram Kishan @ Leela. He further contends that the said witnesses have been duly confronted not only with their version suffered before the police but with the statements suffered before the court in a trial against Ram Kishan and others as well. He further contends that the whole case of the prosecution is based upon the disclosure statement suffered by Ram Kishan @ Leela who has already been acquitted by learned trial court on 19.04.2011, therefore, there is no legally admissible evidence against the petitioner.

Learned counsel for the State, on instructions from HC

Attma Ram, Police Station, Badhra, District Bhiwani, very fairly

concedes that except the disclosure statement of Ram Kishan @ Leela, there is no other evidence to connect the petitioner with the murders of Daya Ram and Chhota Devi. He also concedes that Ram Kishan @ Leela and his co-accused Saitsh @ Shakti and Sunil @ Raja have already been acquitted by learned trial court.

After hearing the learned counsel for the parties and going through the rival contentions of both the parties, the petitioner deserves the concession of bail. The material against the petitioner was inculpatory disclosure statement of Ram Kishan @ Leela, who has already been acquitted by learned trial court. Accordingly, the present petition is allowed and the petitioner, Virender @ Doctor, s/o Ishwar Singh, r/o Rajendra Colony, Bhiwani Chungi, Tehsil and District Rohtak, is ordered to be released on bail subject to his furnishing bond in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Bhiwani. Observations here in above are for the limited purpose of deciding the present application.

January 13, 2015
seema

(Naresh Kumar Sanghi)
Judge