

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

CRM -M-13130 of 2017 (O&M)

Date of decision: 28.04.2017

Bharat Pal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ram Bilas Gupta, Advocate for the petitioner.

Mr. Naveen Kaushik, Addl. A.G., Haryana.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No. 33 dated 25.01.2016, registered under Sections 302, 148, 120B read with Sections 34 & 149 of IPC and Section 25 of Arms Act, at Police Station Hodal, District Palwal.

It is contended that the petitioner is not named in the FIR and his name has come in the supplementary statement of the complainant, namely, Hari Mohan. In the FIR, the main accused has been projected to be Kalwa son of Gopi, who subsequently committed suicide. The learned counsel refers to Annexure P-2 and P-3, the statement of PW-11, Hari Mohan, complainant and PW-12, Jitender, an eye witness to contend that the complainant including the eye witness have not supported the case of the prosecution. He further states that the first bail application filed by the petitioner was ordered to be

dismissed as withdrawn on 20.01.2017 and was not pressed on its merit as the material witnesses had not been examined at that stage. The petitioner is in custody since 27.01.2016.

The learned State counsel is unable to controvert the above factual aspect of the matter, however, he states that the petitioner has been specifically named in the supplementary statement of the complainant.

I have heard learned counsel for the parties and perused the record.

Considering the fact that name of the petitioner has been surfaced in the supplementary statement of complainant, Hari Mohan who has not supported the prosecution version as is made out from Annexure P-2; this Court feels that statements of PW-11 and PW-12 is a material circumstance in favour of the petitioner which have been recorded after the first bail petition had been dismissed, without advertng to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of trial, on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

28.04.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No