

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

**Criminal Misc. No.M-30261 of 2017
Date of Decision: 30.08.2017**

Vipin

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Deepender Singh, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner namely Vipin in case FIR No.51 dated 24.2.2015 under Sections 302, 386, 450, 34, 120-B IPC and Section 25 of the Arms Act, registered at Police Station Khol, District Rewari.

Learned counsel for the petitioner contends that initially, the petitioner remained in custody from 24.2.2015 to 21.5.2015, when he was discharged by the Court. However, on the application submitted by the prosecution, the matter was further investigated and the petitioner was again taken in custody on 30.7.2015 and since then, he is in custody. He has further argued that the petitioner was found innocent by the investigation conducted by two different D.S.Ps., however, it is on the basis

of the direction whereby further investigation was conducted, the petitioner has been made an accused in the case. He has further argued that the prosecution is delaying the trial. He has referred to order dated 11.8.2017 passed by Additional Sessions Judge, Rewari, to the effect that even the prosecution witness has not put in appearance despite being served and therefore, bailable warrants have been issued against the said witness for 29.8.2017. Again, no PW was examined on 29.8.2017 also.

Learned State counsel, on instructions from ASI Lal Chand Yadav, submits that trial in the case is at an advanced stage, as out of the total 35 prosecution witnesses, 30 witnesses have already been examined, 4 witnesses are official and one witness is a public servant. He has referred to order dated 23.5.2017 passed by this Court in CRM-M-14318-2017 ***Pardeep @ Biliya v. State of Haryana*** whereby the bail application filed by the co-accused of the petitioner has been dismissed by this Court. He has further stated that PW-3 Surender Singh, who is complainant in the case, has stated that it is on the asking of the petitioner, accused Jorawar had fired at Vikas.

I have heard learned counsel for the parties.

So far as order of this Court in ***Pardeep @ Biliya v. State of Haryana*** (*supra*) is concerned, the same was passed on 23.5.2017, but even thereafter, as reflected in order dated 11.8.2017 passed by the trial Court, no PW was present. Further, despite there being bailable warrants for 29.8.2017, the prosecution has failed to adduce its evidence on 29.8.2017. In this manner, the trial is being delayed by the prosecution. Though in the statement of Surender Singh, who has appeared as PW-3, it has been stated

that it is at the asking of the petitioner, accused Jorawar had fired the bullet on the person of the deceased Vikas, however, there is no such allegation in the FIR, though Surender Singh PW-3 was the author of the FIR.

Considering the fact that the petitioner is in custody since 30.7.2015 and trial in the case is being delayed, as despite opportunities PWs are not present to get themselves examined, I deem it appropriate to release him on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of her bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observations made hereinabove shall be confined to the present petition only and the same shall not be construed as any expression on the merits of the case. The trial Court shall be well within its competence to form its independent opinion in the case on the basis of available evidence.

August 30, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No