

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

CRM -M-32233 of 2017 (O&M)

Date of decision: 07.09.2017

Khari @ Munna

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Kushagra Mahajan, Advocate for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab
assisted by ASI Mehal Singh.

Jitendra Chauhan, J. (Oral)

By filing the present 5th petition, under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No. 91 dated 03.06.2014, registered under Sections 307, 364, 148 read with Section 149 of IPC and Sections 25 and 27 of Arms Act, at Police Station Cantt. Ferozepur, District Ferozepur.

It is contended that petitioner is in custody since 03.06.2014. Though the charges have been framed but none of the prosecution witnesses have been examined so far. As per the FIR, the petitioner has been said to be allegedly carrying a gun, however, neither the recovery of weapon was effected nor any injury has been attributed to him. Co-accused Sajan, Ajju, Sanju, Kaka and Parveen have been summoned under Section 319 Cr.P.C., therefore, a denovo trial would commence.

On the other hand, the learned State counsel opposes the bail application and states that the petitioner is a habitual offender and is involved in other FIRs as well.

Heard.

As per record, though presence of the petitioner is made out, however, neither any injury had been attributed to him nor any recovery was effected from him; he is in custody since 03.06.2014; out of total 08 PWs, no PW has been examined so far; the inaction of the State in non examination of the PWs is a circumstance in favour of the petitioner. Considering the above facts and circumstances of the case, without adverting 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 CJM/Duty Magistrate/trial Court.

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

07.09.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No