

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Hemlata
2017.11.09 17:35
I attest to the accuracy and
integrity of this document

CRM-M-41457-2017(O&M)
Date of decision:08.11.2017

Pawan and others ...Petitioners
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rajesh Bansal, Advocate, for the petitioners.

Mr. Naveen Sheoran, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in case FIR No.84, dated 07.02.2017, under Sections 302/34 of IPC, registered at Police Station Samalkha, District Panipat.

Learned counsel for the petitioners submits that he wants to withdraw the bail petition qua petitioner No.3 Rajesh S/o Chandgi Ram.

Ordered accordingly.

Learned counsel for the petitioners submits that as per allegations levelled in the FIR, which was got registered initially at the complaint of Rajesh i.e. real brother of petitioners No.1 and 2. It was stated that their 4th brother, namely, Kareshan was found murdered on 06.12.2017 at the tubewell. Later on, during the investigation, the police has involved petitioners No.1 and 2, namely, Pawan and Balbir along with aforesaid 3rd brother Rajesh on the basis of extra judicial confession made before Arvind son of Shishpal and Bhuneshwar. It is further submitted that during the course of trial, both these witnesses have appeared as PW-2-Arvind and PW-3 Bhuneshwar and have not supported the prosecution version.

It is also submitted that no evidence has come on record either

during the investigation or in the statements of both the prosecution witnesses that the petitioners were involved in the commission of the said offence.

Learned State counsel, on instructions from ASI Mukesh Kumar, has however opposed the bail on the ground that as per investigation, all the three brothers were found involved in the commission of offence on the basis of their disclosure statements before the aforesaid two prosecution witnesses.

Without commenting on the merits of the case, considering the fact that PW-2 Arvind and PW-3 Bhuneshwar, before whom the alleged extra judicial confession was made by the petitioners, have not supported the prosecution version and declared were hostile and also in view of the fact that as per version given in the FIR and in the subsequent investigation, no direct evidence has come on record against petitioner Nos.1 and 2 as the case is based entirely on circumstantial evidence, also in view of the fact that the petitioners are in judicial lock up since 10.02.2017 and conclusion of the trial will take long time, petitioner No.1 – Pawan and petitioner No.2 Balbir are ordered to be released on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Illaq Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioners are found involved in any other subsequent case or found misusing concession of bail.

(ARVIND SINGH SANGWAN)
JUDGE

08.11.2017

Hemlata

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No