

231

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

CRM-M-47142 of 2017

Date of decision: December 15, 2017

Naresh Kumar @ Neshi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Ashok K. Sharma Bhana, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

Petitioner seeks grant of regular bail in FIR No.0330 dated 10.08.2017, under Sections 148, 149, 307, 452, 506 of Indian Penal Code, 1860 (for short 'IPC') and Section 25 of Arms Act, 1959, registered at Police Station Safidon, District Jind.

Learned State counsel, on instructions from Head Constable Jagdeep Singh states that Chand who had fired two shots on the complainant with his gun and the complainant had escaped narrowly, has been declared innocent and his name has been placed in column No.2 of the challan. In the First Information Report also, there is mention about Chand as the person firing shots on the complainant. Learned State counsel, however, states on instructions that the incident occurred on 10.08.2017 and the complainant, thereafter, filed affidavit in October 2017 with the Deputy Superintendent of Police concerned

saying that Chand was innocent and had not done anything. Not only that, two more villagers have also filed affidavit before the DSP concerned to the same effect. It is in this context, the Investigating Officer took a decision to put the name of Chand in column No.2 in the challan.

Prima facie, in my opinion, this is clear-cut tampering with the prosecution evidence by the police Department itself and not only that it even adjudicated that Chand was not guilty of any offence. The matter is extremely serious and cannot be allowed being destructive of rule of law.

In that view of the matter, Director General of Police, Haryana is directed to find out to the state of affairs as to how police Department could act as a judge and decide the prosecution case.

In so far as the present petition for bail is concerned, I find that the petitioner was arrested on 15.08.2017 and the role attributed to him is on the basis of disclosure statement only. The trial Court itself has stated so in Para 6 of the judgment. Learned State counsel was asked about any other criminal cases against the petitioner. She makes a statement that in one criminal case that is pending, the petitioner has been acquitted while the other case is under Sections 294, 452, 323, 153A, 148, 149 of IPC.

In that view of the matter, this petition is allowed. Petitioner shall be released on bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioner shall deposit

his passport, if possesses, with the trial Court. Petitioner shall file undertaking before the trial Court that he will not indulge in similar or any other kind of offences in future. Petitioner shall attend the police station concerned between 10:00 AM to 04:00 PM on Monday, Wednesday and Saturday every week. Petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well. In case of violation, the prosecution is at liberty to apply for cancellation of bail.

Director General of Police, Haryana shall make compliance report in respect of above aspect of the matter on or before 20.12.2017. Put up on 21.12.2017 for consideration on the report. A copy of this order be given to the learned State counsel under the signatures of the Bench Secretary.

(A.B. CHAUDHARI)
JUDGE

December 15, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No