

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12732-2018

Date of decision: 03.04.2018

Bijender @ Vijay @ Biju

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.250 dated 10.07.2012 under Sections 148, 149, 323, 307, 302 IPC and Sections 25, 54, 59 of Arms Act, registered at Police Station Kharkhoda, District Sonipat.

Learned counsel for the petitioner submits that the petitioner was declared a proclaimed offender on 07.11.2012 and in the meantime, three other co-accused of the petitioner namely Deepak, Parvinder and Satish, who faced the trial, were acquitted by the trial Court vide judgment dated 04.06.2013, holding that none of the prosecution witness has supported the case.

Learned counsel for the petitioner further submits that the petitioner has surrendered before the trial Court on 23.09.2017 and thereafter, he is facing the trial. The trial Court, after framing the charges, has again recorded statements of the prosecution witnesses, which is attached as Annexure P-2 (colly.). From a perusal of the statement of complainant Krishan PW1, it is apparent that when he reached at the spot, no one was found there except the dead body. One witness Sudhir Singh was given up by the Public Prosecutor. PW3 Sardar Singh, PW4 Parvinder and PW5 Satish were declared

hostile by the Public Prosecutor and even in the cross-examination, they have denied the suggestion that they made statement against the accused persons, while confronting their respective statements made before the police. Similar is the statement made by PW6 Deepak, who was also declared a hostile witness.

Learned counsel for the petitioner has further submitted that all the private witnesses have already been examined and only the official witnesses remain to be examined and there is no possibility of influencing any witness.

Learned State counsel has not disputed the abovesaid factual position.

Without commenting anything on merits of the case, considering the fact that all the witnesses have failed to support the prosecution version and they were declared hostile by the Public Prosecutor; the petitioner is in judicial lockup since 23.09.2017 and only the official witnesses are yet to be examined and also in view of the fact that the petitioner is not involved in any other case and co-accused of the petitioner have already been acquitted by the trial Court vide judgment dated 04.06.2013, as the prosecution witnesses in that trial also did not support the prosecution version, present petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

03.04.2018
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No