

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

CRM-M No.15667 of 2018

Date of decision : 10.07.2018

Sarwan Singh alias Sunny Chaula

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. C. L. Pawar, Senior DAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

Petitioner Sarwan Singh alias Sunny Chaula has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short – 'Cr.P.C.') for grant of regular bail to him in case FIR No.230 dated 04.09.2015 under Sections 307, 148 and 149 of the Indian Penal Code, 1860 (for short – 'IPC'), Section 25 of the Arms Act, 1959 and Sections 302, 452, 450, 323 and 324 IPC (which were added subsequently) at Police Station Sultanwind, Distt. Amritsar City.

As per the case of the prosecution, the complainant made a complaint against the accused persons. Initially, the case was registered under Sections 307, 148 & 149 IPC and Section 25 of the Arms Act. Husband of the complainant remained admitted in the hospital for his treatment but on account of the injuries, he died on 05.09.2015. Thereafter, offence under Section 302 IPC was added.

Learned counsel for the petitioner submits that the petitioner

has falsely been implicated in the case, whereas no role has been attributed to him. The alleged statements were made by all the injured persons under the provisions of Section 161 Cr.P.C. Learned counsel also submits that a compromise has been effected between the petitioner and the complainant party. All the material witnesses have been examined and they have not supported the case of the prosecution. Learned counsel for the petitioner further submits that the bail application filed by the petitioner has been dismissed on the ground that the remaining witnesses included the Investigating Officer and other material witnesses are still to be examined. It has also been mentioned that there is an apprehension of threat to the witnesses and the petitioner was not held entitled for grant of regular bail. Learned counsel also submits that the petitioner has been implicated in the false case and there was no motive for him to participate in the alleged offence. The petitioner is in custody since 29.12.2015 and no purpose would be served by keeping him in custody.

Learned State counsel has not disputed the custody period of the petitioner as well as the fact of not supporting the case of the prosecution by material witnesses.

Heard arguments of learned counsel for the petitioner as well as learned State counsel. Custody period and examination of material witnesses have not been disputed by learned State counsel. PW-1 Poonam alias Sumandeep Kaur, who is widow of the deceased has resiled from the earlier statement made before the police. She was cross-examined, wherein it has been stated that the police did not record her statement. PW-1 has

specifically stated in her cross-examination that she did not make any complaint to the police. She has stated that police party obtained her signature on blank paper. She has even denied that the accused was armed with Kirpan and gave blow of Kirpan on the private part of her husband. Even she denied the supplementary statement made by her. Similarly, PW-2 Satnam Singh who is father of the deceased has also not supported the case of the prosecution. He has also denied that any statement was made to the police. He has denied that accused was armed with Kirpan and gave blow to his son.

Petitioner is in custody for the last more than two years and six months. All material witnesses have been examined and they have not supported the case of the prosecution. Keeping in view the fact that material witnesses have been examined and custody is more than two and six months, no purpose would be served by keeping him in custody.

Accordingly, the present petition is allowed and petitioner Sarwan Singh alias Sunny Chaula is directed to be released on regular bail to the satisfaction of the trial Court.

10.07.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No