

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

CRM-M No.17802 of 2018

DATE OF DECISION:05.10.2018

Madan @ Moni

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. Rakesh Nehra, Advocate
for the complainant.

DAYA CHAUDHARY, J.(ORAL)

Through the present petition filed under Section 439 Cr. P.C., the petitioner seeks regular bail in case FIR No.250, dated 17.06.2015, registered under Sections 323/307/506/34 IPC & 302 IPC (added later on) at Police Station Rajendra Park, District Gurugram.

Learned counsel for the petitioner submits that earlier also the petitioner filed petition for regular bail but it was dismissed as withdrawn with liberty to file afresh after six months vide order dated 06.10.2017. There was no progress in the trial and now the second petition has been filed. The complainant has been examined and cross examined. Learned counsel for the petitioner also submits that petitioner has falsely been implicated in the case by the complainant and while the petitioner was in custody, the brother and father of the petitioner have been murdered by the complainant and FIR No.442 dated 24.07.2015 registered under Sections

302/201/120B/34 IPC at Police Station Chhawala, District South West Delhi against the complainant Jaiveer and his other family members including the brothers of complainant as well as deceased Pardeep. Learned counsel submits that petitioner has undergone custody of more than three years and three months.

On the last date of hearing i.e. 05.09.2018, a wrong statement was made that the complainant has been examined-in-chief but not cross examined whereas he was already cross examined on 12.04.2017 even prior to withdrawal of the earlier bail petition. Learned counsel submits that petitioner undertakes to appear before the trial Court on each and every date and abide by all terms and conditions to be imposed by this Court and the trial Court. He also undertakes not to tamper with the evidence or influence the witnesses.

Learned State counsel as well as learned counsel for the complainant have opposed the submissions made by learned counsel for the petitioner not only on the ground of seriousness of offence but on the ground that complainant has supported the case of the prosecution which shows the involvement of the petitioner in commission of the offence.

Learned counsel for the complainant submits that delay is there because accused were not arrested. The charge was framed on 14.10.2015 but subsequently after arrest of accused Shekhar again charge was framed on 17.02.2017.

Heard arguments of learned counsel for the petitioner as well as learned counsel for the complainant and have also perused the contents

of the FIR and other documents on the file.

Admittedly, the petitioner has undergone custody of more than three years and three months and out of total forty five witnesses six have been examined and complainant have been examined and cross examined.

By considering the custody of more than three years and three months; the stage of the trial as only six material witnesses have been examined including complainant out of total forty five witnesses; two family members of the petitioner have been killed after lodging of this FIR; there is no male member in the family except a female and children; the trial of the case may take long time to conclude and no purpose would be served by keeping the petitioner behind the bars, the petition is allowed. Petitioner-Madan @ Moni is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court.

However, the petitioner is directed to give an undertaking before the trial Court that he will not tamper with the evidence and will not influence the witnesses. He will appear on each and every date before the trial Court.

05.10.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No