

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

**CRM-M No.17262 of 2017
Decided on: 25.04.2018**

Avtar Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Karan Singh, Advocate for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. Gaurav Sethi, Advocate for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.205 dated 30.12.2016, for offence punishable under Sections 302, 148, 149, 506, 120-B of the Indian Penal Code (in short 'IPC') registered at Police Station Sadar Ambala.

Counsel for the petitioner has submitted that as per the allegation in the FIR, the petitioner has conspired with his family members to kill Darshan Singh, father of the complainant and the petitioner was never present at the place where the occurrence has taken place. It is further submitted that the petitioner is in judicial custody since 30.12.2016 and all the eye-witnesses have already been examined.

Counsel for the petitioner has drawn the attention of this Court to the statement of PW6 – Jasbir Singh, who in cross-examination has stated that Avtar Singh was not present at the time of incident and he voluntarily stated that Avtar Singh has abetted the fight and went away. It is further submitted that this fact is not mentioned in

the FIR that Avtar Singh, at any point of time, was present in the fields. Counsel for the petitioner has also submitted that only the official witnesses are to be examined and there is no possibility of influencing the official witnesses by the petitioner.

Counsel for the State, on instructions from ASI Vijay Kumar, assisted with counsel for the complainant has, however, opposed the prayer for bail on the ground that in the disclosure statement of petitioner – Avtar Singh, it has come that he has directed his family members to commit the murder of Darshan Singh and thereafter, he had gone to Ambala City. It is also submitted that the 02 of the co-accused of the petitioner namely Harmesh and Sarabjit Kaur, the son and daughter of the petitioner have been declared as proclaimed offenders and they were never arrested.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial custody for a period of about 02 years and 04 months; 09 prosecution witnesses are yet to be examined and the petitioner was not present at the spot, this petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

25.04.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No