

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

**CRM-M-24874-2018
Date of decision: 27.07.2018**

Amarjeet

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. S. Dhull, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 318 dated 04.11.2016, registered under Sections 302, 34, 387, 201, 216 and 120-B of the IPC and Section 25/54/59 of the Arms Act at Police Station Julana, District Jind.

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 12.11.2016 and while granting regular bail to co-accused Ajay @ Bhuria, vide order dated 14.12.2017 passed in CRM-M-47017-2017, the following order was passed:

“Learned counsel for the petitioner submits that it is a case of blind murder of one Surender @ Balli, who was caused fire arm injury by unidentified persons. On being shifted to the hospital, he was declared dead. The petitioner was arrested in this case on the disclosure statements of coaccused Amarjeet and Sudeep, who have stated that plan to murder Surender @ Balli was hatched at the resident of petitioner. Except the disclosure statements of his co-accused, there is no evidence to

connect the petitioner with the crime.

Learned State counsel submits that after filing the challan by the police, prosecution has examined 7 out of 45 witnesses and except PW-1, who is police official, all other have turned hostile. The petitioner was arrested in this case on the disclosure statements of co-accused and recovery of motor cycle, which was used in the crime, was effected from him.

As per submission of learned counsel for the petitioner and learned State counsel, the only evidence to connect the petitioner with the crime is the disclosure statement of co-accused and recovery of motor cycle from him. There is no direct evidence on record to show that the motor cycle recovered from the petitioner was used in committing the crime. The petitioner was arrested in this case on 10.11.2016.

Keeping in view the above facts, period of incarceration of petitioner and that conclusion of the trial will take considerable long time, the present petition is allowed. Petitioner Ajay @ Bhuria is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.”

Learned counsel for the petitioner has further submitted that as per the status report, filed by way of affidavit of DSP, Detective, Jind, the petitioner has already been acquitted in FIR Nos. 707 and 293, whereas in the present case, the trial is still at the stage of recording of statement of the

prosecution witnesses and out of 45 prosecution witnesses, 10 have been examined so far.

Learned counsel for the petitioner further submits that it has been noticed in the aforesaid order that except the police officials, all other eye-witnesses have been declared hostile and even the present petitioner was arrested in this case on the disclosure statement of the co-accused and recovery of a mobile phone was made from him. It is further submitted that considering the fact that the petitioner is in judicial custody for last more than 01 year and 08 months and prosecution witnesses are not supporting the case, the petitioner may be released on regular bail.

Learned State counsel, on instructions from ASI Subhash Chander, has not disputed the factual position, however, on the basis of the status report, he submitted that since the petitioner was found involved in the aforesaid two other FIRs, though he stands acquitted in both FIRs, he is not entitled to grant of regular bail.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that the petitioner stands acquitted in the aforesaid two FIRs as mentioned in the affidavit of the DSP, Detective, Jind; two co-accused of the petitioner, namely Sudeep Rathee and Ajay @ Bhuria, have already been granted concession of regular bail in CRM-M Nos. 7668 of 2018 and 47017 of 2017; and also in view of the fact that he is judicial custody for more than 01 year and 08 months and the case is still at the stage of recording of statement of prosecution witnesses; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail bonds and two surety bonds to the satisfaction of the trial Court/Duty

Magistrate concerned, subject to following terms: -

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.
- d. It is made clear that the petitioner will mark his presence every month before the SHO, Police Station Julana, District Jind.
- e. It is also made clear that the petitioner will not visit the ordinary place of the residence/business of the complainant/witnesses or its nearby places.
- f. In case, the petitioner is found misusing the concession of bail, it will be open for the prosecution to apply for cancellation.

July 27, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No