

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

CRM-M No.27953 of 2018

Date of Decision: 01.08.2018

Surender alias Foji

....Petitioner

Versus

State of Haryana

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.S. Mor, Advocate
for the petitioner.

Ms. Tanushree Gupta, D.A.G., Haryana.

DAYA CHAUDHARY, J.

The present petition has been filed by petitioner-Surender alias Foji under Section 439 Cr.P.C for grant of regular bail to him in case FIR No.92 dated 23.03.2016 registered under Sections 120-B, 302, 506 IPC read with Section 34 IPC and Section 25 of the Arms Act registered at Police Station Sadar, Sonipat District Sonipat.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he was not involved in any manner. The name of the petitioner does not find mention in the FIR and he has been implicated only on the basis of statement made by his co-accused before the police, which does not have any evidentiary value in the eyes of law. Learned counsel also submits that accused, Hari Chand, who was specifically mentioned in the FIR, was kept in column No.2 while filing report under Section 173 Cr.P.C as he was found innocent during investigation. Learned counsel also submits that co-accused, namely,

Virender and Sandeep @ Sonu filed two different petitions i.e **CRM-M No.18575 of 2017** and **CRM-M No.32955 of 2017**, and they have been granted regular bail by this Court vide orders dated 31.07.2017 and 25.04.2018, respectively. Learned counsel further submits that the petitioner has been implicated in the case only after having details of the location of the deceased from accused Sunil @ Mota, which was supplied to co-accused Satish @ Mona. The petitioner was not present at the spot and he did not participate in any act to cause injury. Petitioner is in custody since the day of his arrest. All material witnesses have been examined who have not supported the case of the prosecution. Learned counsel further submits that there is no other criminal case pending against the petitioner and no useful purpose would be served by keeping him in custody.

Learned State counsel has not disputed the custody period as well as examination of material witnesses, who have not supported the case of the prosecution.

Heard the arguments of learned counsel for the parties and have also perused the contents of the FIR as well as other documents available on the file.

Admittedly, co-accused of the petitioner, namely, Virender and Sandeep @ Sonu have been released on regular bail on the ground that there is no evidence of active overt act on their part and their names did not find mention in the FIR.

In the present case, the name of the petitioner was not mentioned in the FIR and no incriminating material has been recovered by the Investigating Agency. Even two material witnesses i.e PW-3 Naveen and PW-4 Sunil have not supported the case of the prosecution. PW-3

Naveen has specifically denied in his statement that they are not those persons who had fired shot upon his father on 23.03.2016. PW-3 Naveen is son of the deceased and he has not supported the case of the prosecution. Even he has denied having in made written complaint. Similarly, PW-4 Sunil has also specifically denied having fired upon his father by Satish, Arvind and Surender. He has denied his statement made before the police.

On perusal of statements made by material witnesses i.e PW-3 and PW-4 and also the fact that co-accused of the petitioner, namely, Virender and Sandeep @ Sonu have already been released on regular bail; all material witnesses have been examined and they have not supported the case of the prosecution; the petitioner is in custody since the day of his arrest, the present petition is allowed and petitioner, namely, Surender alias Foji is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

(DAYA CHAUDHARY)
JUDGE

01.08.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No