

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

**CRM-M No. 29716 of 2018
Date of decision : 16.10.2018**

Pawan

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Amit Jhanji, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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DAYA CHAUDHARY, J.

Petitioner Pawan has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.455 dated 18.08.2017 under Sections 451, 307, 379-B, 392, 120-B IPC and Section 25 of the Arms Act registered at Police Station – Sadar, Bahadurgarh, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. The investigation of the case has been completed and challan has been presented in the Court. Thereafter, charges have been framed and statement of the material prosecution witnesses including the complainant have been recorded. The material prosecution witnesses have not supported the case of the prosecution. Remaining prosecution witnesses are official and still trial may take some time to conclude. No purpose would be served by keeping

him in custody. Learned counsel also submits that the amount of ₹12,00,000/-, which has been shown to be recovered, belongs to the petitioner as it was his own amount. An application was moved for *superdari* before learned Judicial Magistrate First Class, Bahadurgarh and vide order dated 07.05.2018, it was directed that the amount be kept in Maalkhana of Police Station – Sadar, Bahadurgarh in proper and safe custody. Learned counsel also submits that co-accused Suraj Deshwal has been released on regular bail by this Court vide order dated 10.08.2018 passed in CRM-M No.29542 of 2018. Similarly, co-accused Sandeep alias Kundu has been released on regular bail by learned Additional Sessions Judge, Jhajjar vide order dated 18.08.2018. Learned counsel also submits that the petitioner undertakes not to influence any of the witness or tamper with the evidence and he is also ready to abide by all the terms and conditions to be imposed by this Court or by the trial Court. Learned counsel further submits that while deciding application for release of amount on *superdari*, it was mentioned in the order passed by JMFC, Bahadurgarh that the ownership of amount allegedly recovered by the investigating agency had become disputed question of fact as accused-petitioner and complainant were putting claim over the said amount and this aspect can be decided after leading evidence by the prosecution as well as the defence.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of the offence and submits that recovery of the amount has been effected from the

petitioner. Simply by raising the argument that the material prosecution witnesses have not been supported the case of the prosecution is not sufficient. The factum of recovery of amount itself shows the involvement of the petitioner in the commission of offence. However, learned State counsel has not disputed the factum of release of co-accused Suraj Deshwal and Sandeep Kundu on regular bail and also the fact that material prosecution witnesses have not supported the case of the prosecution.

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

By considering the submissions made by learned counsel for the petitioner that co-accused Suraj Deshwal has been released on regular bail by this Court; co-accused Sandeep alias Kundu has been released on regular bail by learned Additional Sessions Judge, Jhajjar; the material prosecution witnesses have not supported the case of the prosecution and as such by considering the parity with the co-accused who have been released on regular bail, the present petition is allowed and the petitioner is directed to be released on regular bail on furnishing adequate bail/surety bonds to the satisfaction of the trial Court.

16.10.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No