

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

CRM-M No. 31126 of 2018 (O&M)

Date of decision : 13.12.2018

Asfak

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. R. S. Sihota, Senior Advocate with
Mr. B. R. Rana, Advocate and
Mr. Abhinav Sood, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

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DAYA CHAUDHARY, J.

CRM No. 44162 of 2018

This application is for placing on record Annexures P-2 and P-3.

Application is allowed and Annexures P-2 and P-3 annexed with the application are taken on record.

CRM-M No.31126 of 2018

Petitioner Asfak has approached this Court by way of filing the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.663 dated 06.11.2017 under Sections 384, 506 of the Indian Penal Code, 1860 (for short - "IPC") and Section 25 of the Arms Act (later on Sections 387, 389, 365, 342, 120-B

IPC and Sections 54 and 59 of Arms Act were added and Sections 384 and 34 IPC were deleted), registered at Police Station – Hodal, Distt. Palwal, during pendency of the trial.

Learned senior counsel submits that the petitioner has falsely been implicated in the case, whereas no offence is made out. There was delay of 10 days in lodging of the FIR, which has not been explained. Learned senior counsel also submits that there are total 24 prosecution witnesses, out of which statements of two material witnesses *i.e.* complainant Ramesh Chand Jain and his son Dheeraj Jain have been recorded, who have not supported the case of the prosecution. Co-accused namely Soniya has been released on regular bail by this Court vide order dated 23.01.2018 passed in CRM-M No.1792 of 2018. Petitioner is in custody since 05.05.2018. Trial may take some time to conclude and no purpose would be served by keeping the petitioner in custody.

Learned State counsel has not disputed the custody period undergone by the petitioner and also the fact that two material prosecution witnesses namely Ramesh Chand Jain and Dheeraj Jain have not supported the case of the prosecution.

Heard arguments of learned counsel for the parties and have also gone through the FIR and other documents available on the file.

Keeping in view the submissions made by learned senior counsel for the petitioner; two material prosecution witnesses have not supported the case of the prosecution; the petitioner is in custody since 05.05.2018 and still trial may take some time to conclude, no purpose

would be served by keeping the petitioner in custody. Accordingly the present petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

13.12.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No