

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

CRM-M-30379-2017 (O&M)
Date of decision : 01.03.2018

Nitish Trivedi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Akshay Kumar Jindal, Advocate for the petitioner.

Mr. Ramakant Sharma, AAG, Haryana,
assisted by ASI Rajesh.

JITENDRA CHAUHAN, J. (Oral)

The instant petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No.61 dated 01.03.2013, registered under Sections 392 read with Section 34 of the Indian Penal Code and Section 25 of the Arms Act, at P.S. Sector 29, Gurugram.

Contents that the petitioner is in custody since 19.09.2016. He is not involved in any other case. The charges were framed on 13.07.2017. Thereafter, neither the complainant, nor the official witnesses have come forward. The trial Court was constrained to issueailable warrants against ASI Rampal, however, despite service, he did not appear before the Court, as is reflected in order dated 06.09.2017, passed by learned JMJC, Gurugram.

On the other hand, learned State counsel, on instructions, submits that a country-made pistol was recovered from the petitioner. Co-accused, namely, Manoj and Manish, both residents of Uttar Pradesh, after having been released on bail, have misused the concession so granted.

Manoj has already been declared as a proclaimed offender. Out of 21

prosecution witnesses, 5 have already been examined. However, learned State counsel acknowledges the fact that the petitioner is not involved in any other case.

Heard.

This is the third bail petition moved by the petitioner.

Admittedly, the petitioner, a student is in custody since 19.09.2016. The assertion of learned State counsel that co-accused who were admitted to bail have misused the concession so granted, cannot be made a ground to deny bail to the petitioner, particularly, when the complainant and other official witnesses have not come forward. Out of 21 prosecutions witnesses, only 5 have been examined so far. There is total uncertainty with regard to the conclusion of trial. Therefore, this Court is of the considered opinion, that no useful purpose would be achieved in keeping the petitioner under further incarceration.

In view of the above, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing indemnity bonds in the sum of Rupees five lac with two local sureties and all other conditions as may be imposed by the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.03.2018
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No