

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

CRM-M-31910-2018

Date of Decision: 29.08.2018

Bala

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Rakesh Kumar Lathwal, Advocate

Mr. R.K. Doon, A.A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has sought for regular bail under the provision of Section 439 Cr.P.C in case FIR No.66 dated 22.03.2018 registered under Sections 302, 307, 379-B, 120-B, 216, 109/34 IPC and 25 of Arms Act at Police Station Barauda, District Sonipat.

2. Learned counsel for the petitioner submitted that alleged occurrence of killing of one Rajesh and inflicting injury to Savan took place on 22.3.2018. Consequently, FIR was lodged. Petitioner's name is not surfaced in the FIR. She has been implicated only on the statement of one of the witness namely Dhanraj made under Section 161 Cr.P.C. He further submitted that Dhanraj and petitioner had certain issues prior to the alleged occurrence. Therefore, Dhanraj in order to implicate disclosed the petitioner's name.

3. Learned State counsel submitted that petitioner is not entitled for regular bail for the reasons that based on the disclosure statement of Dhanraj and Sheela Kumar petitioner's name has been cropped in the case. Offence is relating to Sections 302, 307, 120-B read with Section 34 IPC and 25 of Arms Act. Therefore, it is not appropriate to release the petitioner from the custody. If she is released, she is likely to tamper the witnesses.

Status report by way of affidavit of Narendera Bijarniya, IPS, ASP, Gohana,

Sonipat has been filed and the same is taken on record.

4. Heard the learned counsel for the parties.

5. At the outset it is to be noted that petitioner's name has not been reflected in FIR. His name has been surfaced only on the disclosure statements of Dhanraj and Sheela Kumar. It is a hearsay evidence. There are no direct evidence against the petitioner. Even presence of the petitioner on the date of occurrence is not supported by any evidence. In the status report filed by the State in Court today in para-5 what has been stated by the State is that "in the instant case, he has been actively participating in hatching criminal conspiracy with the co-accused to kill above said Rajesh." The said statement is very vague which is not supported by any material except disclosure statement of Dhanraj and Sheela Kumar. Even no material has been produced by the State counsel that Dhanraj and Sheela Kumar were present on the date of occurrence. Hence, petitioner is entitled to regular bail. Therefore, without commenting on the merit of the case, petitioner-Bala is ordered to be released on bail to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

6. However, the petitioner shall not in any way indulge in any criminal activities and he shall also not influence the witnesses or otherwise interfere with the fair trial.

7. Petition is allowed accordingly.

29.08.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**