

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM No.M- 32541 of 2018
Date of decision: 07.08.2018**

Irfan**.....Petitioner****versus****The State of Haryana****.....Respondent****Coram: Hon'ble Mr. Justice Rajbir Sehrawat****Present:** Mr. Sunil Panwar, Advocate
for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

Rajbir Sehrawat, J.(Oral)

This is the petition under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in case FIR No.240 dated 06.07.2015 under Sections 148, 149, 323, 325, 302, 452, 506 IPC and Section 25 of the Arms Act, registered at Police Station Tauru, District Nuh.

Learned counsel for the petitioner submits that the name of the petitioner has been wrongly involved in this case. It is further contended that the other co-accused of the petitioner have already been acquitted in the trial in this very FIR. During the trial of the co-accused the complainant himself has stated that the present petitioner was not the person involved in the present case. Not only the complainant, the other witnesses examined by the prosecution during the trial have also deposed before the Court, on oath, that the present petitioner was not the person involved in the present crime.

On the other hand, learned counsel for the complainant submits that the family of the petitioner is still threatening the complainant, therefore, the petitioner should not be released on bail. He has further submitted that the name of the petitioner is duly mentioned in police investigation.

Learned State counsel on instructions from HC Devinder Singh

submits that the challan against the present petitioner was filed on 14.04.2018 and

the trial is going on. Earlier the petitioner could not be arrested because he was avoided arrest. However, it is not denied that the petitioner was not declared as a P.O./PP.

In view of the above fact there are two versions of the story. One is as described before the trial Court by the witnesses, including the complainant, while deposing on oath, on the other hand there is version contained in the statements of the witnesses recorded under Section 161 of the Cr.P.C. This Court would prefer to go with the statements of witnesses recorded before the trial Court on oath. As per the statements recorded before the Court, admittedly, the complainant and the other prosecution witnesses have categorically deposed that the petitioner is not the person involved in the crime.

In view of the above, but without commenting upon the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail during the pendency of Trial subject to his furnishing bail bond/surety to the satisfaction of the trial Court/Duty Magistrate.

7th August, 2018

Manju

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No