

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

CRM-M No. 35731 of 2018 (O&M)

Date of decision : 16.10.2018

Bhanu alias Bhanu Partap

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. J. S. Bedi, Senior Advocate with
Mr. Sunil Kumar, Advocate for the petitioner.
Mr. Chetan Sharma, AAG, Haryana.

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DAYA CHAUDHARY, J.

CRM No.31362 of 2018

Learned counsel for the petitioner wants to withdraw this application.

Dismissed as withdrawn.

CRM-M No. 35731 of 2018

Petitioner Bhanu alias Bhanu Partap has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short - 'Cr.P.C.') for grant of regular bail to him in case FIR No.455 dated 18.08.2017 under Sections 451, 307, 379-B, 392, 397, 120-B IPC and Section 25 of the Arms Act registered at Police Station – Sadar, Bahadurgarh, during pendency of the trial.

Learned senior counsel for the petitioner submits that the

petitioner has falsely been implicated in the case, whereas he was not involved in the commission of the offence. Name of the petitioner is not mentioned in the FIR and he has been implicated subsequently. Learned senior counsel further submits that as per case of the prosecution, three young boys including the present petitioner have committed the alleged offence but none of them has been mentioned in the FIR. After conclusion of the investigation, the challan was presented under Section 173(2) Cr.P.C. against three persons including the present petitioner and thereafter, trial was started. Learned senior counsel further submits that all material prosecution witnesses including the complainant have been examined and they have not supported the case of the prosecution. As per statement of complainant (PW-1), the persons who have committed the alleged offence were not the same persons who were present in the Court and were facing trial. It has also been mentioned that the assailants were talking in Nepali language but nothing was said regarding their involvement in the alleged commission of offence. The petitioner has been implicated by the local police on the basis of concocted story of alleged extra judicial confession made before one Rajbir, who has been examined as PW-2 and he has also not supported the case of the prosecution. He has specifically stated that he had no knowledge about the facts of the present case and had falsely been implicated in the case, whereas he had no concern with the alleged offence. Learned counsel also submits that as per the prosecution version, one Ramphal had seen the offenders on the day when they were running away in a car after committing the alleged offence. He was examined as PW-3 but

he has specifically stated in examination-in-chief that the persons who were facing trial were not those persons who looted the complainant. The petitioner has been shown to have suffered disclosure statement in presence of one Yeshveer who has been examined as PW-4 and said witness has also turned hostile and he has not supported the case of the prosecution. One other witness namely Rajesh PW-5 before whom co-accused Sandeep had suffered his disclosure statement has denied having knowledge about the occurrence. Petitioner is in custody since 07.02.2018 and trial may take long time to conclude and no purpose would be served by keeping him in custody. At the end, learned senior counsel 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, another co-accused Sandeep alias Kundu has also been released on regular bail by learned Additional Sessions Judge, Jhajjar vide order dated 18.08.2018. Learned senior counsel also submits that the petitioner undertakes not to influence any of the prosecution 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 State counsel has opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of the offence. He also submits that simply by raising the argument that the material prosecution witnesses have not been supported the case of the prosecution is not sufficient when the recovery of the amount has been effected from the petitioner. 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