

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40430-2018 (O&M)

Date of decision:27.11.2018

Sanjeev @ Manji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Kulvir Narwal, Advocate
for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

Mr. Anil Ghanghas, Advocate
for the complainant.

RAJBIR SEHRAWAT, J. (ORAL)

Present petition has been filed for seeking bail pending trial in FIR No.488 dated 21.08.2017 for the offences punishable under Section 148, 149, 302, 120-B, 412 of IPC and Section 25 of Arms Act, registered at Police Station City Meham, District Rohtak.

Learned counsel for the petitioner contends that the petitioner is not named in the FIR as such. However, as per the police case, the subsequent statement of witness-Ram Kumar was recorded in which the said witness has involved the name of the petitioner as well. Even in the statement of the said witness, the petitioner is not stated to be the person who was involved in the actual act of killing the deceased. The only role attributed to the petitioner is that he had informed the whereabouts of the deceased to the actual assailants. Besides this statement, there is no other evidence against the petitioner. There is no recovery from the petitioner in this case. The investigation is complete. The petitioner is not required for any investigation purposes. The case is at the stage of the prosecution evidence. The petitioner is in custody since 06.09.2017. However, out of

total 28 witnesses, none has been examined so far. The co-accused of the petitioner with almost similar a role has already been released on bail by this Court. Hence, the prayer for grant of bail is made.

Vide the previous order, this Court had ordered as under:-

“Adjourned to 27.11.2018.

The previous order passed by the trial Court shows that five prosecution witnesses were present before it, however, they could not be examined because the accused were not produced before the Court on that day.

In view of this situation, it is directed that all the accused shall be positively produced before the trial Court on the next date of hearing. If the accused are not produced before the trial Court on the next date of hearing, then the Superintendent of Police, Rohtak and the Superintendent of District Jail, Bhiwani, both, shall appear before the trial Court personally and file their individual explanations; through affidavit, as to why the accused are not being produced before the Court.”

Learned counsel for the State, being instructed by ASI Harbhaj Singh, submits that pursuant to the above said order passed by this court, the accused were produced before the Court. Even the witnesses were present. However despite that, no witnesses have been examined before the trial Court. It is submitted by State Counsel that the petitioner has participated in a serious offence, therefore, he should not be released on bail.

Be that as it may, the fact remains that the petitioner is in custody since 06.09.2017. He is not directly named in the FIR as the assailant. Earlier the argument of the State was that the accused is not being produced before the Court. So witnesses are not being examined. But now

Court, the prosecution has not been able to examine even a single witness so far. The co-accused of petitioner are already on bail. Therefore, it would not be unjustified, if the petitioner is ordered to be released on bail.

In view of the submissions made by the learned counsel for the petitioner, but without commenting on the merits of the case, the present petition is allowed. Petitioner is granted the concession of bail pending trial. He be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

27.11.2018
Hemlata

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