

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43153-2018 (O&M)

Date of decision:16.10.2018

Sanjeet

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. R.S.Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate, for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

Mr. Anshumaan Dalal, Advocate, for the complainant.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No. 621 dated 13.10.2016 under Sections 302, 201, 34 of IPC and Sections 27-54-59 of Arms Act 1959, registered at Police Station: City Bahadurgarh, District Jhajjar.

Learned Senior counsel for the petitioner contends that at the best case against the petitioner that he was accompanying the other co-accused when the murder had taken place. The allegation against the petitioner is based on the fact that he is seen in alleged CCTV footage of the hospital, where the deceased was left on stretcher; in an injured condition; by the petitioner and his co-accused. Counsel further contends that earlier the case of the police against the petitioner was only under Section 201 and 34 of IPC. However, in the supplementary challan now filed by the police on 17.05.2018, even Section 34 of IPC alleged against the petitioner, has been deleted by the police. Therefore, it is contended that there cannot be substantive charge of murder of one person; against three persons in an absence of Section 34 of IPC; because the death is alleged due to only one gunshot injury. Counsel has pointed out that out of 33 witnesses, only 12 witnesses have been examined so far. Even

these witnesses would be required to be re-examined in view of the supplementary challan filed by the police. Therefore, the trial is likely to take longer time. The petitioner deserves to be released on bail. Learned Senior counsel further submits that the petitioner is in custody since 11.09.2018 and he is not required for any further investigation purpose.

On the other hand, learned State counsel, being instructed by ASI Jai Karan has submitted that the supplementary challan has now been filed. The prosecution would try its best to complete the evidence as early as possible.

Mr Anshumaan Dalal, Advocate, appearing for the complainant submits that, in fact, the investigation of the case has been spoiled by the Investigating Officer/SHO in collusion with the present petitioner. He further submits that the petitioner duly seen in the video footage of the hospital. Therefore, his involvement is clearly made out.

Be that as it may, the fact remains that even the prosecution is wavering in its investigation. The supplementary challan has just been filed. Therefore, in view of the submissions made by learned Senior counsel for the petitioner, but without expressing any opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial; subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

16.10.2018

Hemlata

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No