

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

CRM M-42464 of 2017.

Date of Decision: 20.04.2018.

Balbir @ Bali

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Gaurav Mohunta, Advocate and
Mr. Sudhir Kashyap, Advocate,
for the petitioner.

Mr. Ripu Daman, AAG Haryana
assisted by ASI Suresh Kumar.

JITENDRA CHAUHAN.J.(ORAL)

This is fourth bail application filed under Section 439 Cr.P.C seeking bail in case FIR No.141 dated 06.05.2011 registered under Section 148, 114, 323, 325, 302, 307, 109 read with Section 149 IPC and Section 25 of Arms Act at Police Station Kalanaur, District Rohtak.

Learned counsel for the petitioner states that the petitioner is in custody since 12.05.2015. The petitioner was earlier allowed bail by this Court vide order dated 11.12.2013 which was subsequently cancelled by Hon'ble the Supreme Court vide order dated 24.10.2013 (Annexure P-5). It is asserted that despite long period of incarceration, none of the 52 cited PWs has so far been examined. Only the complainant has been partially examined. Learned counsel refers to

the order Annexure P-5 to contend that Hon'ble the Supreme Court has

noticed that FSL does not indicate that victim, Vishno was killed by a revolver shot allegedly possessed and fired by Balbir Singh but more likely from a .315 bore standard rifle as was possessed by Sombir. Co-accused Sombir who allegedly fired fatal shot had already been admitted to bail by this Court vide order dated 29.02.2016 passed in CRM M-5214 of 2016 which has not been assailed either by the complainant or the State of Haryana. It is also asserted that the petitioner, aged about 75 years, has undergone angioplasty surgery during custody. In the alternate, prayer has been made to grant the petitioner interim bail in view of his long incarceration and health condition.

On the other hand, the learned State counsel opposes the bail application. It is submitted that the petitioner remained a proclaimed offender. However, he fairly admits that the order declaring the petitioner as proclaimed offender has been challenged in CRM M-23532 of 2015 wherein it has been ordered that the proceedings under Section 174-A IPC pursuant to the order declaring the petitioner as proclaimed offender shall be adjourned beyond the date fixed by this Court. The petition is still pending adjudication.

Heard.

Considering the fact that the petitioner is in custody since 12.05.2015 and prior thereto he remained in custody from 30.05.2011 to 12.02.2013; not a single PW has so far been examined;

an application under Section 319 Cr.P.C was moved by the complainant and the same is pending adjudication before Hon'ble the Supreme Court, therefore, a complete uncertainty has arisen with regard to conclusion of trial. In the circumstances, long incarceration of the petitioner is a fresh circumstance in favour of the petitioner at this stage, therefore, the Court is inclined to release him on interim bail for a period of six months on his furnishing two indemnity bonds of Rs.10 lakh each with two sureties of the like amount each to the satisfaction of trial Court/duty Magistrate concerned. In deference to the observations made by Hon'ble the Supreme Court in Criminal Appeal No.1834 of 2013 (Annexure P-5) whereby the bail granted to the petitioner was cancelled considering his influence in the area, it is ordered that during the bail period, the petitioner shall stay away from District Rohtak and will not enter District Rohtak except on the dates on which the hearing is fixed before the trial Court or his presence is required by the trial Court. The petitioner shall also surrender his passport, if any, held by him. The date of release and surrender be indicated by the competent releasing Court.

Ordered accordingly.

20.04.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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