

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47619-2018 (O&M)

Date of decision:27.11.2018

Krishan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Sanjay Vashisth, Advocate
for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

Present petition has been filed for seeking bail pending trial in FIR No.81 dated 22.05.2017 for the offences punishable under Section 307 of IPC and Section 25, 27 of Arms Act (Challaned under Sections 307, 326, 325 of IPC and Section 27 of Arms Act), registered at Police Station Bawani Khera, District Bhiwani.

Learned counsel for the petitioner contends that the case against the petitioner is totally concocted. The allegation against the petitioner is that he caused injuries on the neck of Joginder and palm of the other witness-Jasbir Singh. However, the very location of the injuries show that the petitioner had no intention to cause any death. Still further, it is contended that otherwise also, the story of the prosecution is fabricated version. In fact, it was the complainant, who called the petitioner to his place on mobile phone regarding some money transaction; which was discussed during the day in a Panchayat and according to that discussion, the petitioner was to pay some money to the complainant. But the complainant and his accomplices attacked the petitioner with gun and other

the attack by the complainant upon the petitioner. In fact, the petitioner had also reported the matter to the police on the same day; as having received injuries at the hand of the complainant. But despite that, the police had not registered the case against the complainant side. The petitioner had approached this Court by way of CRM-M-38991-2017 for a direction to the police to register a case and to investigate the same in accordance with law. Since the police was hobnobbing with the complainant, therefore, the police without recording the statement under Section 161 Cr.P.C. prepared the cancellation report qua the FIR registered on the version of the petitioner. But despite having prepared the same, the report was not presented before the Magistrate for a long time. Still further, it is contended that the petitioner is in custody since 23.05.2017, but out of total 21 witnesses, only 12 witnesses have been examined. Otherwise also, both the injured have already been examined by the prosecution. Therefore, if the petitioner is released on bail, no prejudice shall be caused to the case of the prosecution. It is further contended by the counsel that the petitioner claims to have fired in self-defence; and the Court is yet to decide the veracity of the version of the parties. Hence, the fact as to who was the aggressor; would be a moot point to be considered/decided by the trial Court.

On the other hand, learned State counsel, being assisted by the counsel for the complainant, submits that the petitioner despite being a police official have fired upon the complainant and his brother with his service revolver. It is further contended that the evidence of the case is at the initial stage. Therefore, it would not be in the interest of justice to release the petitioner on bail.

Be that as it may, the fact remains that there is a cross-version by the petitioner. The material witnesses have already been examined by the prosecution. The petitioner is in custody for about one and a half years now, still 50% witnesses are yet to be examined.

In view of the above, 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