

Sr. No.213

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

**CRM-M-49245-2018
Date of decision:16.11.2018**

Balwan @ Tola

.....Petitioner

versus

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Rakesh Nehra, Advocate
for the petitioner.

Mr. Karan Sharam, AAG, Haryana.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking bail pending trial in FIR No.300, dated 31.05.2018 for the offences punishable under Sections 302/120-B/34 IPC and Section 25 of Arms Act, 1959 registered at Police Station City Bahadurgarh, District Jhajjar.

Learned counsel for the petitioner submits that the name of the petitioner is not mentioned in the FIR. There is no allegation that he was present on the spot at the time of incident. There is no positive role attributed to the petitioner qua the incident of firing upon the deceased. The petitioner was taken into custody on 01.08.2018 only on the basis of the alleged statement of the father of the deceased, in which he had only stated that the petitioner was one of the conspirators along with 9 other persons. However, there is no description in this alleged statement as to how the father of the deceased came to know of any conspiracy involving the present petitioner in the case. His name has been involved only on the basis of

suspicion expressed by the father of the deceased. Otherwise, the allegation of killing the deceased; by firing upon him; is only against Assif son of Aliser and one Darshan. Although the son of the petitioner has also been consistently named in the case, however, the petitioner has been sought to be involved only for the reason that he happens to be the father of one of the accused namely, Sumit. It is further contended that there is no recovery effected from the petitioner. Challan qua the petitioner has already been filed. He is no more required for any investigation purposes and the trial has not yet started.

On the other hand, learned State counsel, being instructed by PSI Sandeep Kumar submits that the name of the petitioner has cropped up in the statement of the father of the deceased. The same was corroborated by the son of the petitioner in the statement recorded after the arrest of the petitioner and his son. Still further co-accused has also named the petitioner as a person; from whom the main accused had taken money for purchasing the weapon. However, learned State counsel has not denied the fact that petitioner is in custody since 01.08.2018 and challan has already been filed qua the present petitioner.

After hearing learned counsel for the parties and perusing the record, this Court finds that the name of the petitioner has been involved only on the basis of the alleged suspicion expressed by the father of the deceased, although the alleged statement of the father of the deceased does not have any detail regarding alleged conspiracy, in which the present petitioner might have been involved. Still further challan has already been filed and, as submitted by learned counsel for the petitioner, except the disclosure statement of the co-accused and the ambiguous statement of the

father of the deceased; there is no material on record to show the involvement of the petitioner in the crime as such.

In view of the above, but without expressing any further opinion on the merits of the case, the petition is allowed. Petitioner is granted the concession of bail pending trial. He be released on bail pending trial subject to furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate.

16th November, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*