

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

**CRM-M No.48352 of 2017
Decided on: 07.03.2018**

Rajesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this second petition is for grant of regular bail to the petitioner in FIR No.84 dated 07.02.2017, for offence punishable under Section 302 read with Section 34 of the Indian Penal Code (in short 'IPC'), registered at Police Station Samalkha, District Panipat.

The first petition was dismissed as withdrawn on 08.11.2017 and the second petition has been filed after recording the statement of two material witnesses i.e. Arvind and Bhuvenshewar before whom the petitioner has allegedly made a disclosure statement after commission of the crime.

Counsel for the petitioner has submitted that as per the allegations in the FIR, on 07.12.2017, the brother of the petitioner namely Krishan was found murdered in the tube-well room by some unknown person and the information to the police was given by the petitioner himself. Later on, during the investigation, the police

recorded the statement of two persons namely Bhuvenshewar son of Krishan Lal and Arvind son of Shish Pal before whom the petitioner has made an extra judicial confession that he has committed the murder of his brother. Counsel for the petitioner has further submitted that both these witnesses i.e. PW2 – Bhuvenshewar and PW3 – Arvind have not supported the prosecution version before the trial Court and they have been declared as hostile by the Public Prosecutor and in the cross-examination, they have even denied having made their respective statements Ex.PB and Ex.PC.

Counsel for the petitioner has further argued that the co-accused of the petitioner namely Pawan and Balbir who are also the real brother of the petitioner as well as the deceased Krishan have been granted the concession of regular bail vide order dated 08.11.2017. It is further submitted that out of 13 prosecution witnesses, only 03 witnesses have been examined so far and the remaining witnesses are the official witnesses and there is no possibility of influencing them.

Counsel for the State, on instructions from ASI Ramesh Singh, has not disputed the fact that 03 prosecution witnesses have been examined so far and both the witnesses i.e. PW2 – Bhuvenshewar and PW3 – Arvind have not supported the prosecution version.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial custody since 10.02.2017; only 03 prosecution witnesses have been examined; both the witnesses i.e. PW2 and PW3, before whom the petitioner has allegedly make the extra judicial confession, have not supported the prosecution version; the co-accused of the petitioner have already been

granted the concession of regular bail, the petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

07.03.2018
yakub

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