

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

CRM-M No.50347 of 2018

Date of Decision: November 28, 2018

Dr.Mahender Partap

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Paras Talwar, Advocate,
for the petitioner.

Mr. Pawan Girdhar, Addl.A.G.Haryana with
Mr. Ajit Bhardwaj, AAG, Haryana,
for the State.

AMIT RAWAL, J.

Petitioner, who is aged 56 years, has sought regular bail in case FIR No.345 dated 27.08.2017 under Sections 120-B, 121A, 145, 150, 151, 152, 153 IPC registered at Police Station, Sector 5, Panchkula on the complaint of one Sanjeev Mahajan Patarkar, Incharge Denik Bhaskar Trai City, Sector 5, Panchkula.

It has been alleged that the petitioner is a Doctor by profession and was not named in the aforementioned FIR. His name only figured on account of the alleged confessional statement made by co-accused before the police, which is not admissible in evidence as per Section 25 of the Evidence Act. No incriminating article has been recovered from the possession of the petitioner to connect him with the crime. The petitioner had been doing social duties as he had gone to UK for two years and

returned to India in the year 1995. He served in remote villages of Sri Ganganagar (Rajasthan) and treated the cancer patients.

Vide appointment letter Annexure P-2, petitioner joined Shah Satnam Ji Super Specialty Hospital at Sirsa and while serving in the Dera Hospital, he was never called as Mahender Insan. The petitioner was arrested in the aforementioned FIR on 07.01.2018 and remained in police custody upto 11.01.2018.

Mr.Bipan Ghai, learned Senior Counsel assisted by Mr. Paras Talwar Advocate, representing the petitioner submitted that the place of alleged meeting was already known to the police, which is not admissible in evidence. The confessional statement of co-accused has no value in the eyes of law. The co-accused of the petitioner, namely, Ved Parkash, Rajinder Singh, Ranvir Singh, Raj Kumar, Ramesh, Bhim Sain, Ram Singh, Daljit Singh and Chhinder Pal Arora have already been granted regular bail by this Court vide orders Annexure P-3 (colly). Kharati Lal, Gopal Krishan and Pardeep were granted bail by the trial court, but subsequently their bail was cancelled. The order of cancellation has been set-aside by this Court vide order dated 05.10.2018, whereas the case of the petitioner is on better footings. The petitioner has undergone an emergent coronary artery bypass grafting on 10.05.2018 at Sir Ganga Ram Hospital, New Delhi. He was discharged from the hospital on 22.05.2018 and was granted interim bail by this Court and in pursuance to that, after extension of the interim bail, has already surrendered, but the aforementioned medical record, while considering the application for regular bail, has not been taken into consideration. No recovery or discovery of any fact has taken place on the basis of the so-called confessional statement. Challan in the aforementioned

case has been filed. The petitioner filed bail application before the trial court, which has been dismissed vide order dated 04.06.2018.

Mr. Pawan Girdhar, learned Additional Advocate General, Haryana assisted by Mr. Ajit Bhardwaj, learned Assistant Advocate General, Haryana submitted that the information collected from the eye witnesses directly involved the petitioner in the crime as on the date of conviction of Head of Dera Sacha Sauda, he played a role in hatching the conspiracy to spread violence in Panchkula. Though his name was disclosed in the confessional statement, but the photographs published in various newspapers reflected his presence. The investigation of some other co-accused is still pending and in case he is granted bail, it would hamper the prosecution case.

I have heard the learned counsel for the parties and appraised the paper book.

The factum of the regular bail granted to the co-accused, referred to above, and cancellation of bail has not been controverted, much less filing of the challan in the same very FIR.

It is a matter of record that the guilt of the petitioner can be only established after the trial is concluded. At this stage, it is too remote to brand the petitioner as a guilty person. It is also yet to be established whether the petitioner was involved in hatching the conspiracy to spread violence on conviction of the Dera Head or not. The petitioner was not named in the FIR and his name was disclosed in the confessional statement. No weapon or incriminating substance or article has been recovered from the petitioner.

In view of the fact that the trial is likely to take some time, I

find that it would be in the fitness of things to grant regular bail to the petitioner.

Accordingly, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail bond and surety bond to the satisfaction of the trial Court/CJM/Duty Magistrate, Panchkula subject to the conditions that he shall appear in the court on each and every date of hearing. He shall not give any threat or intimidation to the prosecution witnesses and shall not leave India without prior permission of the court. In addition, the trial court shall be at liberty to impose certain terms and conditions. It is also made clear that if the petitioner violates any term and condition on which the bail has been granted, the order can always be clarified or withdrawn or cancelled.

November 28, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No