

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

**CRM-M No.7569 of 2018
Decided on: 27.04.2018**

Balinder Kumar @ Vicky

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Chandan Singh Rana, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.47 dated 15.04.2015, for offence punishable under Sections 302/34 and 120-B of the Indian Penal Code (in short 'IPC'), registered at Police Station Daresi, District Ludhiana.

Counsel for the petitioner has submitted that the petitioner is in judicial lock up for more than 03 years and 06 days and is not involved in any other case and is not a previous convict. It is further submitted that as per the allegation in the FIR, the petitioner along with the main accused – Sandeep has committed the murder of one Mahi, who was staying with Sandeep.

Counsel for the petitioner has also submitted that PW8 i.e. Neelam, the mother of the deceased – Mahi was declared hostile by the trial Court. It is further submitted that PW8/A i.e. Savita, who is sister of co-accused – Sandeep, has also not supported the prosecution

version and was also declared hostile by the trial Court. Counsel for the petitioner has further argued that one of the co-accused namely Ravi Kumar has already been granted the concession of bail by this Court vide order dated 27.04.2017 passed in CRM-M No.13665 of 2017.

Counsel for the petitioner has relied upon the judgment passed by this Court ***“Bhola Singh vs The State of Punjab”***, 2010(1) **LRC 404** to submit that where the accused is in long custody and relevant witnesses have not supported the prosecution version during the trial, then bail can be granted to the accused.

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner is not involved in any other case except in one FIR registered under Section 52-A of the Prisons Act and is not a previous convict. It is also not disputed by counsel for State that the petitioner is in judicial lock up for more than 03 years and 06 days.

Counsel for the State, on instructions from ASI Satnam Singh, has also submitted that some more witnesses are yet to be examined and has not disputed that PW8 and PW8/A have been declared hostile by the trial Court.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial lock up for the last 03 years; 02 of the prosecution witnesses have been declared hostile by the trial Court; the co-accused of the petitioner has also been granted the concession of bail by this Court, this petition is allowed and the petitioner is ordered be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty 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

27.04.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No