

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

Hemlata
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CRM-M-7668-2018(O&M)

Date of decision: 23.04.2018

Sudeep Rathee

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Inder Pal Goyat, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') is for grant of regular bail to the petitioner in case FIR No. 318 dated 04.11.2016 under Sections 302, 34, 387, 201, 216, 120-B of IPC and Sections 25, 54, 59 of Arms Act, registered at Police Station Julana, District Jind.

Learned counsel for the petitioner submits that while granting regular bail to co-accused of the petitioner, namely, Ajay @ Bhuria in CRM-M-47017 of 2017, the following order has been passed on 14.12.2017.

“ Learned counsel for the petitioner submits that it is a case of blind murder of one Surender @ Balli, who was caused fire arm injury by unidentified persons. On being shifted to the hospital, he was declared dead. The petitioner was arrested in this case on the disclosure statements of co-accused Amarjeet and Sudeep, who have stated that plan to murder Surender @ Balli was hatched at the resident of petitioner. Except the disclosure statements of his co-accused, there is no evidence to connect the petitioner with the crime.

Learned State counsel submits that after filing the challan by the police, prosecution has examined 7 out of 45 witnesses and except PW-1, who is police official, all other have turned hostile. The petitioner was arrested in this case on the disclosure statements of co-accused and recovery of motor cycle, which was used in the crime, was effected from him.

As per submission of learned counsel for the petitioner and learned State counsel, the only evidence to connect the petitioner with the crime is the disclosure statement of co-accused and recovery of motor cycle from him. There is no direct evidence on record to show that the motor cycle recovered from the petitioner was used in committing the crime. The petitioner was arrested in this case on 10.11.2016.

Keeping in view the above facts, period of incarceration of petitioner and that conclusion of the trial will take considerable long time, the present petition is allowed. Petitioner Ajay @ Bhuria is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.*
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.*
- c. He shall not leave the country without the prior permission of the Court.”*

Learned counsel for the petitioner further submits that the case of the petitioner is of similar nature and since the prosecution witnesses

have been declared hostile, no useful purpose will be served by keeping the petitioner behind the bars in the present case. It is further submitted that the petitioner is in judicial lock up since 16.11.2016 and the conclusion of the trial will take long time.

Learned State counsel, on instructions from ASI Surinder Kumar, has not disputed the factual position.

Without commenting anything on merits of the case and considering the fact that the co-accused of the petitioner has already been released on regular bail, the petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.

(ARVIND SINGH SANGWAN)
JUDGE

23.04.2018

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No