

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-739 of 2019

Date of Decision: 11.12.2019

Ajay

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. S.S. Kharb, Advocate,  
for the petitioner.

Mr. Navdeep Singh, A.A.G., Haryana.

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AMOL RATTAN SINGH, J. (ORAL)

In this petition, by which the petitioner seeks to be admitted to bail, on 07.11.2019, while reproducing the earlier order passed, the following order had been passed:-

*On September 20, 2019, the following order  
had been passed:-*

*“Learned counsel for the State  
has produced in Court today the order  
passed by the learned Addl. Sessions Judge,  
Karnal, dated 17.09.2019, stating to the  
effect that summons issued to the  
complainant, his son (the injured person),  
as also two other witnesses, namely Rahul  
and Anita, were shown to have been served,  
they had not come present to testify, with  
the matter therefore adjourned to October  
23, 2019. Learned counsel for the petitioner  
has pointed out that the commission of an*

*offence punishable under Section 307 of the IPC is no longer included in the FIR, with the said offence having been converted to one punishable under Section 326 of the IPC, which fact learned State counsel, on instructions from Sub-Inspector Suresh Kumar, does not deny.*

*Adjourned to 07.11.2019, with the complainant expected to testify before that date.”*

*Today, learned counsel for the petitioner has produced an order of the learned trial Court, dated October 23, 2019, in which it is stated that PWs Anita, Surender, Naveen and Rahul did not appear before the court despiteailable warrants having been issued to secure their presence and consequently, warrants of arrest have now been ordered to be issued to secure their presence on 06.12.2019.*

*He further submits that in the aforesaid circumstances, with the complainant and other such material witnesses and the mother of the injured person, not even appearing before the learned trial Court time and again, and the petitioner having been in custody almost one year, he deserves to be admitted to bail.*

*Upon query learned counsel for the State, he does not deny the aforesaid fact and on further query submits that as per his instructions from ASI Bansi Lal, there is no other criminal case shown to be registered against the petitioner.*

*In view of the above, adjourned to 11.12.2019, with the petitioner ordered to be admitted to interim bail on his furnishing adequate bail and surety bonds to the satisfaction of the trial Court, till the next date of hearing before this Court.”*

Today, learned State counsel as also learned counsel for the petitioner, submit that the complainants and those stated to be injured in the occurrence, have still not appeared before the trial Court.

Learned counsel for the complainant however submits that this is so because the petitioner and his co-accused are pressurising the complainant and his son to not testify before that Court.

Without making any comment on that contention, it is of course to be noticed that the petitioner had been admitted to interim bail only on the last date of hearing and not before that.

Very obviously, the complainant and those stated to be injured had not been appearing to testify before the trial Court before that date also.

That being so, whether due to any pressure exerted, or otherwise, the 'complainants' are choosing not to appear before the trial Court to testify, cannot be conclusively commented upon. However, in a situation where they were not testifying even prior to grant of interim bail to the accused, an accused cannot be kept in custody indefinitely.

Consequently, without making any comment on the actual merits of the case, for or against the petitioner, or the complainants, the petition is allowed, with the interim order dated 07.11.2019 made absolute.

**December 11, 2019**

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Whether speaking/reasoned  
Whether Reportable

**(AMOL RATTAN SINGH)**  
**JUDGE**

Yes  
No.