

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12556-2019 (O&M)

Date of decision:11.04.2019

Sumit @ Kala @ Boxer

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Pardeep Singh Poonia, Advocate
for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

This is a second petition filed under Section 439 of Cr.P.C. for grant of bail pending trial in case FIR No.464 dated 18.10.2017 under Sections 302, 307, 34, 120-B of IPC and Section 25 of Arms Act, registered at Police Station City Kaithal, District Kaithal.

The first petition filed by the petitioner was dismissed vide order dated 14.08.2018, primarily on the ground that most of the prosecution witnesses had not been examined by that time. Learned counsel for the petitioner submits that after dismissal of his earlier application for bail pending trial, the prosecution has examined all the relevant prosecution witnesses and now only the official witnesses remain to be examined. Hence, he has filed the second petition for seeking bail pending trial.

Learned counsel for the petitioner has submitted that name of the petitioner was not mentioned in the FIR. His name had cropped up in the case on the basis of the disclosure statements of other co-accused. Even as per the said disclosure statements, the role of the petitioner was pointed out only qua supplying the weapon to the main accused. Besides this, no other overt act was attributed to him towards the actual crime of committing murder of the deceased. Still further, it is submitted that the petitioner is in

custody since 08.11.2017. Although, all the material prosecution witnesses have already been examined, however, he has not been named by any of the said witnesses. Since large number of witnesses are yet to be examined, therefore, the petitioner deserves to be released on bail pending trial. It is further submitted that one of the co-accused of the petitioner with still serious allegations, has already been released on bail.

On the other hand, learned State counsel, being instructed by SI Dharam Pal, submits that the petitioner is part of a gang involved in criminal activities. As per the investigation of the police, the petitioner was found to be supplying the arms to the members of the gang. However, it is not disputed that except the allegation of supplying the arms to the co-accused, no other overt act has been attributed to the petitioner, qua the actual act of committing of murder of the deceased. It is not disputed that some of the prosecution witnesses have not even supported the case of the prosecution and the material witnesses have already been examined by the prosecution. It is also not disputed that the petitioner is in custody since 08.11.2017.

In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

11.04.2019
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No