

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

**CRM-M-22820-2019
Date of decision: 28.11.2019**

Rajender**...Petitioner**

Versus

State of Haryana**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Rohit Mittal, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Dhruv Sihag, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0527 dated 17.09.2017, registered under Sections 148, 149, 307, 323, 324, 452, 506 of the IPC at Police Station Mahendergarh, District Mahendergarh. The first petition bearing CRM-M-43123-2018 was dismissed as withdrawn on 06.03.2019.

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 17.11.2017 and statements of both the injured witnesses, i.e. PW-11 Raghubir and PW-12 Subh Ram, have already been recorded, hence, there is no possibility of tampering with the prosecution evidence.

Learned counsel for the petitioner further submits that after recording the statements of aforesaid witnesses, the prosecution had moved

an application under Section 319 Cr.P.C., which was allowed, vide order dated 28.09.2018 and four other persons, namely Mehar Chand, Narender, Vikram and Bina, who were found innocent during investigation and were kept in Column No. 2 while submitting the *challan*, have been summoned as additional accused.

Learned counsel for the petitioner further argues that the aforesaid additional accused have filed a revision before this Court, bearing CRR-3653-2018, challenging the aforesaid summoning order and the said revision is now pending for 10.02.2020 and the trial Court has been directed to adjourn the case till the next date of hearing. In view thereof, the trial Court is not proceeding further as the proceedings have been stayed by this Court.

Learned State counsel, on instructions from ASI Resham Singh, has not disputed the factual position and submitted that total five persons were challaned, out of which, all are on bail except the petitioner.

Learned counsel for the complainant has opposed the grant of bail to the petitioner on the ground that there are direct allegations against the petitioner as per the statement of injured witnesses PW-11 and PW-12 and, thus, has prayed for dismissal of the present petition.

After hearing learned counsel for the parties, I find merit in the present petition considering the fact that petitioner is in judicial custody for the last more than two years; both the injured witnesses stand examined and there is no possibility of tampering with the prosecution evidence and also considering the fact that the application, filed by the prosecution under Section 319 Cr.P.C., has been allowed by the trial Court and four other persons have been summoned as additional accused and in case the said

summoning order is upheld by this Court, the trial will start de novo.

Therefore, without commenting upon the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

28.11.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No