

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

CRM-M-32802-2019

Date of decision: August 16, 2019

Pawan Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Ms. Kiran Bala Jain, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to petitioner-Pawan Kumar son of Ramesh Kumar, r/o village Dhanunda in case FIR No.192 dated 12.6.2016 under Sections 147, 148, 149, 285, 302, 307, 506, 120-B IPC and Sections 25/54/59 of the Arms Act, registered at Police Station Kanina, District Mahendergarh.

The new ground for filing this petition is that some evidence has been recorded and also in view of the fact that the petitioner is in custody for the last about three years and the trial has yet not concluded.

Counsel for the petitioner has submitted that as per the allegations in the FIR registered at the instance of one Ajit Singh, on 15.5.2016, co-accused Vikram Singh, Chhotu, Ashu, Jaswant, Balbir Singh, Rameshwar, Harchand, Rajpal, Ajay, Pawan and Kanohari came on motorcycles and caused fatal injuries to Vinod @ Bhata with pistol and other

weapons and seriously injured Manjit. In the said incident, Vinod @ Bhata died and the present FIR was registered.

Counsel for the petitioner has argued that the police initially arrested the main accused Vikram Singh and Ajay Pal, alongwith Manoj and Vishal @ Bania and, during interrogation, they suffered their respective disclosure statements about the weapons, which they had hidden after committing the offence. Counsel has further submitted that the petitioner was arrested after two months, i.e. on 12.8.2016 and his disclosure statement Ex.PW12/E was recorded, in which the petitioner has demarcated the house of Pawan Bawaria, where Vinod @ Bhata was killed. Counsel for the petitioner has further submitted that nothing was recovered from the petitioner in pursuance to his disclosure statement.

Counsel for the petitioner has further referred to the statement of the Investigating Officer ASI Devender Singh, who appeared as PW12 where he has given the details of the recovery effected from the co-accused Vikram Singh, Manoj, Ajay Pal and Vishal @ Bania and with reference to Ex.PW12/E, this witness stated that the petitioner got the place of occurrence demarcated. Counsel for the petitioner has relied upon the statement of injured witness Manjit, who appeared as PW1 and deposed that accused Vikram shot at Vinod @ Bhata, thereafter accused Ajay, Manoj and Vishal @ Bania fired shot at Vinod @ Bhata. Thereafter, Vikram fired a shot which hit on the right shoulder of PW1. Thereafter, accused Ajay gave khukhari blow on his left fore-arm as well as on the person of Vinod @ Bhata. This witness has further stated that then accused Navneet caused injuries on the person of Vinod @ Bhata and as well as PW1. This witness

has further stated that both Pawan, one from his village (i.e. the petitioner) and the other from outside, Rajpal, Rameshwar, Bhupinder @ Chhotu, who were armed with iron rods also caused injuries to both of them.

Counsel for the petitioner has referred to the cross-examination of this witness wherein, he was confronted with his statement recorded under Section 161 Cr.P.C. as Ex.DA, where he was confronted with allegations against Ajay, Manoj, Vishal @ Bania, then confronted with the allegations against the petitioner, Rajpal, Rameshwar and Bhupinder @ Chhotu and admitted that in the statement Ex.DA, the same is not recorded. Counsel for the petitioner has, thus, argued that while appearing as PW1, this witness has made improvements in the statement made under Section 161 Cr.P.C. as he has admitted in his cross-examination when he was confronted with the statement that it is not so recorded in his statement recorded by the police. Counsel for the petitioner has further argued that there is no specific attribution against the petitioner of causing injury to deceased Vinod @ Bhata or the injured witness, i.e. PW1 Manjit.

Counsel for the petitioner has further submitted that the case is still at the stage of recording of the prosecution evidence and out of 30 witnesses only 24 have been recorded and therefore, some time is required for leading the defence evidence and it will take some time.

Learned State counsel has filed the custody certificate and as per the same, the petitioner has almost completed three years of judicial custody and no other case is pending against the petitioner. Learned State counsel, on instructions from ASI Rohtas Singh, could not dispute the statement of ASI Devender Singh, who appeared as PW12 as well as injured

witness Manjit Singh, who appeared as PW1. It is also not disputed that the statement Ex.DA of Manjit Singh was confronted with PW1 and he has admitted that in this statement he has not stated anything about causing of injury by the petitioner to deceased or him.

Learned State counsel, on the basis of the disclosure statement of the petitioner Ex.PW12/E has further stated that as per the statement, the petitioner has led the accused to the place where Vinod @ Bhata was sitting and, therefore, he is prosecuted in the aid of Section 120-B IPC.

Without commenting anything on the merits of the case, considering the arguments advanced by the counsel for the petitioner; the petitioner is in custody for the last three years and the trial is moving at a very slow pace and in view of the fact that the petitioner is not involved in any other case and there is no direct allegation of causing injury, the present petition is allowed and petitioner-Pawan Kumar is ordered to be released on regular bail, subjected to his furnishing appropriate bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/Illqa Magistrate, concerned.

August 16, 2019
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No