

S.No.217

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

CRM-M-34091 of 2019 (O&M)

Date of Decision:05.09.2019

SandeepPetitioner

Vs.

State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. C.R. Dahiya, Advocate
for the petitioner.

Mr. Manoj Kumar Sangwan,
DAG, Haryana.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.347 dated 22.12.2018 registered under Sections 365 and 34 IPC (Section 147, 149, 364, 302, 201 IPC added later on) at Police Station Ellenabad, District Sirsa.

It is contended by learned counsel for the petitioner that the name of the petitioner has been wrongly involved in this case. It is further submitted that the petitioner is not even denying the fact that the petitioner was a driver of the vehicle, which is involved in this case. However, being an employee, the petitioner was deputed on the said date by the owner of the said car only, as a driver of the said car, which was hired as taxi by the alleged assailants, on that day. The car was hired for travelling to Ellanabad by the group of persons, who happen to be the assailants later on. However, the petitioner has not participated in the activity of commission of murder of the deceased. In fact, even the petitioner was threatened by the assailants to follow their commands, as driver of the vehicle. Therefore, he could not speak out at that moment. But after returning from the journey, he had

immediately intimated to his employer; qua the incident which had happened in that night. Still further, it is submitted that the petitioner had no acquaintance or prior connection with the alleged assailants. Even during the investigation, the Police have not been able to collect any evidence of any prior connection or communication of the petitioner with the alleged accused. Therefore, there is nothing on record to suggest the participation of the petitioner in conspiracy of committing the murder of the deceased. It is further contended that even the main co-accused has given the version of the incident in his disclosure statement, according to which also, no role has been assigned to the petitioner in the act of murder of the deceased. It is also contended that the petitioner is not related to or connected with; either to the side of the deceased or to the side of the accused. The petitioner is in custody since 25.12.2018. There is no other case against the petitioner. Charge has already been framed. Therefore, the petitioner is not required for any investigation purposes. Hence, the petitioner deserves to be released on bail pending trial.

On the other hand, learned State Counsel, being instructed by ASI Rajesh Kumar submits that the petitioner is involved in a heinous crime of murder. It is further submitted that the murder had actually taken place in the vehicle which was driven by the petitioner at that time. It is further contended that as per the call details collected by Police, in the morning on the fateful day itself, the main accused had talked to the petitioner. Therefore, involvement of the petitioner in the crime is established. However, it is not disputed that the vehicle in question belong to one

Sombir. The owner of the vehicle has also disclosed to the Police that the petitioner was employed as a driver on his car. It is also not disputed that the said owner has disclosed to the Police that the petitioner had narrated the incident to him; immediately after returning from the journey.

As response to the above submissions of learned State Counsel, learned counsel for the petitioner submits that; so far as the call details; referred to by the learned State Counsel are concerned, the petitioner was contacted by the main accused for bringing the vehicle at the time of start of the journey. Before that, the petitioner had no communication of any kind with the said person; nor is the prosecution claiming any call detail prior to that; showing any communication between the petitioner and the co-accused.

In view of the above, but without commenting any further upon merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

September 05, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No