

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

CRM-12874-2020 (O&M)

Date of Decision :23.06.2020

Rohtash

...Petitioner

Versus

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice B.S.Walia

Present: Mr. Sandeep K. Yadav, Advocate and  
Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

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**B.S.WALIA, J. (VC)**

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of pandemic Covid-19.

2. Prayer in the petition under Section 439 of Cr.P.C. is for grant of regular bail to the petitioner during the pendency of the trial in case FIR No.34 dated 02.02.2020, registered under Sections 147, 148, 307, 379-B, 427, 436, 506 of IPC and Section 25 of the Arms Act, at Police Station Nangal Chaudhary, District Mohindergarh.

3. Learned counsel appearing on behalf of the petitioner contend's that except for the disclosure statement of co-accused, Ram Phal, implicating the petitioner, there is no other evidence *qua* the involvement of the petitioner in the aforementioned incident leading to registration of the FIR. Learned counsel appearing on behalf of the petitioner relies upon the decision of the Supreme Court in case titled as Surinder Kumar

Khanna vs. Intelligence Officer, 2018 (3) RCR (Criminal) 934. Relevant extract of the same is reproduced as under:-

“14. In the present case it is accepted that apart from the aforesaid statements of co-accused there is no material suggesting involvement of the appellant in the crime in question. We are thus left with only one piece of material that is the confessional statements of the co-accused as stated above. On the touchstone of law laid down by this Court such a confessional statement of a co-accused cannot by itself be taken as a substantive piece of evidence against another co-accused and can at best be used or utilized in order to lend assurance to the Court. In the absence of any substantive evidence it would be inappropriate to base the conviction of the appellant purely on the statements of co-accused. The appellant is therefore entitled to be acquitted of the charges leveled against him. We, therefore, accept this appeal, set aside the orders of conviction and sentence For example: State vs. Nalini, (1999) 5 SCC 253, paras 424 and 704 and acquit the appellant. The appellant shall be released forthwith unless his custody is required in connection with any other offence. “

4. Learned DAG, Haryana, has not been able to show any material evidence regarding involvement of the petitioner in the alleged

incident except for the disclosure statement made by co-accused, Ram Phal.

5. In the light of the position as noted above, particularly of there being no material except the disclosure statement suffered by co-accused,the petitioner being in custody since 23.02.2020, challan having been presented in the case on 21.05.2020 but charges yet to be framed,the instant petition for bail is allowed. The petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the learned CJM/trial Court/Duty Magistrate concerned.

**(B.S.WALIA)**  
**JUDGE**

**23.06.2020**  
rajneesh/rajesh

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|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether reportable        | : Yes/No |