

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

**CRM-M No.15875 of 2020 (O&M)
Date of decision : October 27, 2020**

Om Parkash @ Omi

..... Petitioner

Versus

State of Haryana

..... Respondent

(IN VIRTUAL COURT)

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sanjay Vashisth, Advocate for the petitioner.

Mr. Arun Beniwal, 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.177 dated 12.03.2019, registered under Sections 302 and 34 IPC and Section 25 of Arms Act, 1959 (challaned under Sections 302, 120-B, 149 IPC and 25 of the Arms Act, 1959), at Police Station Camp Palwal, District Palwal.

It is submitted by learned counsel for the petitioner that the case against the petitioner is totally concocted and has been created by the police in collusion with the complainant in the present FIR. In fact, the petitioner is the complainant in another case pertaining to murder of a family member of the petitioner. The collusion of the police authorities is writ large on the face of it because in that murder case, the police are not taking any action. So far as the present FIR is concerned, it is submitted by the learned counsel for the petitioner that, in the first instance, the allegation

against the petitioner was that he fired upon the deceased. However, subsequently, the story has been changed by the police on the statement of alleged another eye witness, namely, Pooja, to the effect that the petitioner had sent the assailant to cause death of deceased involved in the present case. As per that statement, the petitioner was not present on the spot. Still further, it is submitted that nothing has been recovered from the petitioner. It is also submitted that there is no other case against the petitioner. The petitioner is in custody since 13.03.2019. Despite repeatedly availing opportunities, the prosecution has not examined even a single witness in this case. Therefore, the trial is likely to take a longer time. The petitioner is not required for any investigation purposes. Hence, the petitioner deserves to be released on bail.

On the other hand, learned State counsel, being instructed by ASI Narender, has submitted that there are specific allegations against the petitioner qua having fired on the deceased and those allegations are substantiated by the medical evidence. However, it is not disputed that the other alleged eye witness, namely, the daughter of the deceased, has not named the petitioner as an assailant in the case. The injury attributed to the petitioner in the FIR has been attributed to some other person in the statement of this alleged eye witness. Therefore, the inconsistency in the story line of the prosecution has gone totally unexplained. It is also not disputed that there is no other case against the petitioner and that not even a single witness has been examined so far.

In view the above, but without commenting any further 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

October 27, 2020

sarita	
Whether speaking / reasoned	Yes
Whether Reportable:	No