

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.218

CRM-M-18496-2020

Date of decision: 25.02.2021

Amitabh @ Mannu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rakesh Dhiman, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.192 dated 13.05.2010 registered under Sections 148, 149, 307, 392, 302 IPC and Section 25 of the Arms Act at Police Station Sampla Rohtak, District Rohtak.

The petitioner is being prosecuted for the murders of Phool Singh and Surinder.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case; the petitioner was neither named in the FIR nor therein any overt act was attributed to him; the name of the petitioner surfaced in the alleged disclosure statement made by co-accused Anil @ Leela in police custody which evidence in terms of Section 25 of the Indian Evidence Act, 1872 (for short – the Act) is inadmissible; the prosecution further seeks to use the petitioner's confession allegedly made by him in police custody which is also inadmissible in evidence under Section 26 of the Act; as per the status report filed by the State, the petitioner is alleged to be driving the motorcycle involved in the crime whereas Himmat (son of deceased Phool Singh) – the alleged eye-witness to the crime, while appearing before the Trial Court as PW-4 has specifically named Anil and Sonu to be the only persons on the motorcycle; the only other alleged eye-witness namely Bansi Lal while appearing before the

Trial Court as PW-1 has not supported the prosecution's case and has been declared hostile; there is no other evidence against the petitioner; the petitioner is in custody for the last 02 years and 04 months and since over 40 prosecution witnesses still remain to be examined in the petitioner's trial the same will not conclude in the near future.

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner took active part in the murders of Phool Singh and Surinder; if released on bail he may influence prosecution witness and that he may also indulge in similar offences.

The petitioner has been in custody since 25.10.2018; as per learned State counsel the only evidence against the petitioner is the disclosure statement of a co-accused as also the petitioner's confession both made in police custody; out of the only two alleged eye-witnesses one has been declared hostile and the other has not named the petitioner; the specific case of the State in their status report that it was the petitioner who was driving the motorcycle used in the crime but the alleged eye-witness namely Himmat, while appearing before the Trial Court as PW-4, has named Anil and Sonu to be the only persons driving the said motorcycle and the petitioner's trial in which over 40 prosecution witnesses are to be examined is likely to take a long time to conclude especially in the present circumstances when the world is facing the Covid-19 pandemic.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Rohtak, who shall insist on at least two heavy local sureties, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

February 25, 2021
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No