

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

CRM-M-31633-2020
Date of decision: 18.03.2021

Devender @ Munim

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Alok Mittal, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Sahil Gupta, Advocate
for respondent No. 2/complainant.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 347 dated 02.07.2017, registered under Sections 302, 201, 34 of the IPC at Police Station Narnaul, District Mahendergarh.

Learned counsel for the petitioner submits that petitioner is in judicial custody for the last about 03 years and 08 months and all the prosecution witnesses have already been examined, therefore, there is no possibility for the petitioner to tamper with any prosecution evidence.

Learned counsel for the petitioner further submits that the case is now fixed defence evidence and to lead his defence evidence effectively, the petitioner should be granted the concession of regular bail.

Learned counsel further submits that since the complainant's side has filed a petition bearing CRM-M-6333-2018 before this Court, in which there is prayer for issuance of directions to conduct the proper investigation of the case and the trial Court, vide impugned orders dated 02.01.2018 and 30.01.2018, has dismissed the application, filed under Section 173(8) Cr.P.C., in the event of allowing the said petition, the trial will further be delayed as vide order dated 17.05.2018, it is directed by this Court that passing of the final order shall remain stayed.

Learned counsel for the petitioner further submits that another petition, bearing CRR-1313-2018, has also been filed by the complainant's side, in which the prayer is to set aside the impugned order passed by the trial Court, vide which an application for addition of charges qua accused Manoj was dismissed.

It is further submitted that in the eventuality of allowing the aforesaid revision petition, again there will be a *de novo* trial.

On merits of the case, learned counsel for the petitioner submits that the FIR was registered on a complaint given by complainant Madan Lal that his son Prashant @ Pintu (deceased) was running a grocery shop and co-accused Rahul had an altercation with him 3/4 days prior to the date of his murder. It is further stated that Rahul had threatened complainant's son and due to this fact, Rahul sent his friend Ravi @ Bhola to accompany Prashant @ Pintu. Later on, complainant learned that petitioner Devender

and co-accused Manoj were sitting with deceased Prashant @ Pintu near the college and were having liquor. Thereafter, complainant received a call, in which, his son informed him that he was on Kultajpur Road but later on his phone could not be connected and the next morning, when he called on the same number, the petitioner told him that the whereabouts of his son were not known. On this, the complainant became suspicious and subsequently, he got an information that the dead body of a young man is lying in a drain. There were injuries on the forehead of the deceased and accordingly, the present FIR was registered.

Learned counsel for the petitioner further submits that the entire evidence against the accused persons is based on the circumstantial evidence i.e. 'last seen' and since the entire prosecution evidence has already been concluded, the petitioner, who is in long custody of about 03 years and 08 months, may be enlarged on regular bail.

Learned State counsel, on the basis of the custody certificate and on instructions from the Investigating Officer, has not disputed the factual position and submitted that the case is now fixed for defence evidence.

Learned counsel for the complainant has also not disputed the fact that aforesaid two petitions are pending before this Court and are listed today itself and in one of the petitions, this Court has stayed the passing of the final order.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties as well as facts

and circumstances of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

18.03.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No