

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107+221

CRM-M-29247-2022 (O&M)
Decided on : 27.07.2022

Pawan

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

CRM-25909-2022

For the reasons mentioned in the application, same is allowed
subject to all just exceptions and Annexures P-3 and P-4 are taken on
record.

Main Case

The present petition has been filed under Section 439
Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 1038
dated 15.10.2018 under Sections 302, 201, 364, 404 and 34 of the
Indian Penal Code, 1860 registered at Police Station Central, District
Faridabad.

Learned counsel for the petitioner has submitted that the
petitioner has been in custody since 07.11.2018 and there are as many
as 25 prosecution witnesses out of whom, only 9 witnesses have been

examined and thus, the trial is likely to take time. It is further argued that the petitioner is not involved in any case and the FIR was registered by Gautam with respect to death of his father against unknown persons. It is contended that the said FIR was registered on 15.10.2018 and after a delay of 17 days, a supplementary statement had been recorded by the said complainant in which he had stated that one Rajesh had told him that he had met the father of the complainant on 14.10.2018 and the father of the complainant had boarded a CNG three wheeler autorikshaw green and yellow colored, which was being driven by the present petitioner in which, 2 friends of the petitioner were also present and that the said Rajesh had suspicion that the present petitioner alongwith his friends had murdered the father of the complainant. It is further contended that the said Rajesh was not even an eye witness and there is no explanation as to why he did not report the matter immediately after the said occurrence. It is argued that inspite of several dates having been given and even summons having been issued, the said Rajesh has not appeared and for the said purpose, has referred to the zimni orders/bailable warrants issued against the said Rajesh.

Learned State counsel has opposed the present application for regular bail and has submitted that the recovery of the mobile phone of the deceased has been effected on the basis of the disclosure statement made by the petitioner. It is further submitted that the complainant in the supplementary statement had, on the basis of information given by Rajesh, stated that the petitioner and other two

friends of the petitioner were involved in the said case and has thus, opposed the present bail petition.

This Court has heard learned counsel for the parties and has perused the paperbook.

The petitioner has been in custody since 07.11.2018 and there are as many as 25 prosecution witnesses out of whom, only 9 witnesses have been examined and thus, the trial is likely to take time. The petitioner is not named in the FIR, which has been got recorded by the complainant Gautam, who is the son of the deceased. The petitioner has been implicated in the present case on the basis of the supplementary statement recorded by the said Gautam which had been recorded after a period of 17 days and even as per the said supplementary statement, it is on the basis of information given by Rajesh that the petitioner has been implicated and even the said Rajesh had mere suspicion that the petitioner alongwith his two friends had committed the murder of the complainant's father. There is no eye witness in the present case. A perusal of the zimni orders would show that on several dates, no evidence has been produced by the prosecution after 08.12.2020 and the said Rajesh, who had given the information, has not come to depose inspite of summons/bailable warrants having been issued against him.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the

concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

(VIKAS BAHL)
JUDGE

27.07.2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No