

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

(Sr. No. 207)

CRM-M No. 42669 of 2020

Date of decision : 12.01.2023

Pawan Kumar @ Pahlwan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Matvinder Singh, Advocate and
Ms. Sumanjit Kaur, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.162 dated 16.07.2017 registered under Sections 302, 147, 149, 201, 380, 420 IPC and Section 25/54/59 of Arms Act, 1959 at Police Station Bawal, district Rewari.

The petitioner and his co-accused are being prosecuted for having committed murder of Satbir Singh.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case; the petitioner is in custody since 12.03.2018; all the material prosecution witnesses including the deceased's son (complainant) and the deceased's wife stand examined in the petitioner's trial; during the course of such examination none of the material witnesses have toed the prosecution line; as per the FSL report the bullets

which caused the death of the deceased had not been fired from the weapon allegedly recovered from the petitioner and that since 48 prosecution witnesses still remain to be examined in the petitioner's trial, the same shall take a long time to conclude.

Learned State counsel admits to the period of incarceration of the petitioner and with regard to the FSL report as also the fact that the prosecution witnesses examined so far have been won over. However, he opposes the grant of bail to the petitioner on the ground that there is still enough evidence with the State to convict the petitioner and that because he is involved in four other criminal cases which include two murder cases, if released on bail, he may influence the trial/indulge in similar offences.

The FSL report as per which the bullets which caused the deceased's death do not match with the weapon allegedly recovered from the petitioner and the testimonies of the material prosecution witnesses, who have turned hostile, make the prosecution story debatable. Nonetheless, as on date, the actual custody of the petitioner is nearly 04 years and 10 months; all the material prosecution witnesses including the deceased's son and deceased's wife already stand examined in the petitioner's trial; during the course of such examination they have given a clean chit to the petitioner; as all the material prosecution witnesses have been examined, it is highly unlikely that the petitioner, at this stage, would be in a position to influence the course of his trial and that since 48 prosecution witnesses still remain to be examined in the petitioner's trial, the same is likely to take a long time to conclude.

In view of the above, 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, Rewari who shall insist on 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.

It is further directed that while on bail the petitioner shall own and possess a smart mobile phone which shall be kept on at all times; the phone shall always be with the petitioner; he shall share the number of the phone as also his location with the SHO of the area where the petitioner normally resides; he shall mark his attendance on 1st of each month in the police station and that he shall also not leave the jurisdiction of the concerned police station without the prior permission of the SHO of such police station.

12.01.2023.*sunil yadav***(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No