

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

CRM No.M-12230 of 2016 (O&M)

Date of Decision: 19.05.2016

Sahib

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Chanderhas Yadav, Advocate for the petitioner.
Mr. Deepak K. Grewal, DAG, Haryana.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of the present petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in FIR No.43 of 10.03.2015, under Sections 148, 149, 323, 324, 325, 326, 427, 436, 452, 395, 397, 506, 316 of the Indian Penal Code, 1860, registered at Police Station Nagina, District Mewat.

Counsel for the parties have been heard.

Perusal of the FIR would reveal that nephew of the complainant Mohammed Anish had entered into matrimony with Rijwana without consent of the elders and had even moved a petition seeking protection of life and liberty before this Court and which was allowed on 09.01.2015. Both Mohammed Anish and Rijwana were thereafter stated to be staying in a protection home at Nuh. Apparently, since it was a marriage between two members of the same community, a Panchayat was stated to have been convened in which the complainant Wali Mohammed had executed an agreement in favour of Ahmad and had deposited Rs. 3 lac with one Mubin as security as also entered into an agreement pertaining to land on the

condition that the couple would come back to the village and upon their refusal the security amount etc. would be handed back. It so transpires that the couple having refused to return back to the village, an occurrence is stated to have taken place on 09.03.2015 wherein allegedly about 120 people armed with *lathis*, *dandas*, *farshas*, stones etc. attacked the house of the complainant party and such mob is stated to have committed dacoity and taken away silver and gold ornaments as well.

Insofar as the present petitioner is concerned, even though his name finds a mention in the FIR, yet no direct role/overt act has been attributed to him. As per prosecution version, the petitioner had taken away one gold chain and one pair of silver anklet but no such recovery has been effected from him.

Petitioner has been in custody since 04.08.2015.

It would be pertinent to take note that in CRM No.M-31247 of 2015 preferred by co-accused, Majid seeking benefit of regular bail, submission had been raised by counsel for the complainant as well as State counsel that there was a rivalry between two communities in the area and as such, there might be a danger of law and order situation developing. Accordingly, Superintendent of Police, Mewat was directed to file a situation report and even report of the learned District and Sessions Judge, Mewat was sought.

The requisite reports called for were placed on record in the connected petition and based thereupon it was opined that the apprehension as regards the law and order situation developing was misconceived and the trial could proceed un-hampered.

Investigation in the case is already complete and the challan has

been presented. The matter has already been committed to the Court of Sessions.

In view of the above and coupled with the length of incarceration already suffered by the petitioner, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Nuh.

Disposed of.

19.05.2016

shubham

(TEJINDER SINGH DHINDSA)
JUDGE