

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24187-2017 (O&M)

Date of decision: 16.08.2017

Khalid

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sarfraj Hussain, Advocate, for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No.469 dated 01.07.2016, under Sections 332, 353, 186, 394, 395, 365 read with Section 34 IPC, registered at Police Station DLF Sector-29, Gurgaon, Haryana.

It is submitted on behalf of learned counsel for the petitioner that the petitioner is in judicial custody since 01.08.2016 and the investigation has already been completed in this case and is not involved in any other case. He is further submitted that it will take long time to conclusion of the trial and the co-accused, namely, Islamuddin, has already granted concession of regular bail in CRM-M-6172 of 2017, vide order dated 31.05.2017.

While granting bail to co-accused Islamuddin, this Court has passed the following order:-

“(2) FIR was registered with the allegations that on 30.06.2016, the complainant/Inspector/SHO of the Police Station was going to the office of DCP East Traffic Tower in uniform in his private Swift car at about 11.30/12.00 AM. When he was going through a service lane towards Galaria Sushant Lok, near the cut of A and B block, four boys were seen standing in a suspicious condition. On entertaining suspicion, the

complainant stopped his vehicle and started checking them. The complainant treated them to be suspicious and got them seated in his car. Two boys were got seated on the back seat of the Swift car and one boy started running from there. The third boy who was standing nearby stopped the boy who was running and called him back. The complainant got seated three boys on the back seat and got one boy seated on the front seat for the purposes of inquiry in the police Station. As soon as the complainant tried to start the car, then the boys seating behind caught him by neck and dragged him backside and put him in between the front and back seat. Complainant was given injuries on the eyes and lips. They drew away the vehicle and took him to a forest. They put the complainant in dicky of the car and took him to a lonely place near the brick-kiln. Complainant was kept in the dicky for about 5/6 hours. At about 8 PM in the night, they moved from there by taking the complainant along and at about 9 PM, they reached 10/12 kms beyond Hodel in the area of Police Station, Kosi. Then, complainant was left by taking the vehicle forcibly. Complainant reached at the highway with the help of motorcyclist and from there, he reached the home. Complainant gave the nomenclature of the accused persons in terms of ages, heights and clothes. The accused had also withdrawn the amount from ATM by asking the PIN number of the complainant and also took two mobiles from him.

[3]. Learned counsel for the petitioner submitted that the alleged occurrence took place on 30.06.2016, whereas FIR came to be registered on 01.07.2016. No phone call was made to Police of Uttar Pradesh (U.P) and no complaint was lodged there even after alleged throwing of the complainant by the four unknown persons near Kosi. No complaint was made by the family

members or colleagues of the complainant. No missing report was lodged. The complainant has not given any motorcycle number or the name of the person from whom he had allegedly taken lift in Uttar Pradesh so as to approach the highway while coming to the house.

[4]. Learned counsel further submitted that the petitioner was not amongst those original accused who allegedly abducted the complainant and took away the car. Petitioner has not participated in the original occurrence alleged to have been taken place on 30.06.2016. Petitioner has been implicated on the alleged disclosure statements of co-accused Abid etc in police custody, wherein they have alleged that after kidnapping of the complainant, they went to Neem Khera and co-accused Surinder made a call to the petitioner, Liyakat and Farku and informed them that they kidnapped the police officer. On the alleged asking of the petitioner, they snatched the vehicle and left the complainant near Kosi.

[5]. On the other hand, learned State counsel submitted that the car was recovered at the instance of the petitioner. As per revised disclosure statement of the petitioner, on 29.06.2016, on the asking of the petitioner, Surender, Saleem, Khalid, Khali, Hayum @ Hallu, Sadana and Abid went to loot the vehicle in question. Learned State counsel further referred to the antecedent behavior of the petitioner and contended that he was involved in numerous cases in different States including Haryana, Rajasthan, Maharashtra, Delhi, Madhya Pradesh and Gujarat.

[6]. Having heard the submissions at the bar, I am of the prima facie view that the alleged disclosure statement of the petitioner would be debatable in view of the fact that the occurrence in question was not on account of pre-planned conspiracy. Movements of the complainant were

not known to the accused, therefore, the alleged revised disclosure statement of the petitioner that the accused went to Gurgaon to loot a vehicle cannot be relatable to the complicity of the petitioner that he wanted to get the vehicle in question looted. Petitioner was not involved in the original version of the case. The alleged complicity of the petitioner came to fore only on account of disclosure statements of the co-accused, wherein the role ascribed to the petitioner was that he asked the co-accused to snatch the vehicle and allow the complainant to go. The vehicle had already snatched till such time. By referring to alleged involvement of the petitioner in numerous cases, learned counsel for the petitioner has produced a chart of those cases, in which in many cases, petitioner was acquitted, in some of the cases, he was found to be innocent. In some of the cases, petitioner was discharged, some of the cases were cancelled and in some of the cases, petitioner was not found to be an accused. In the pending trial cases, petitioner is on bail.”

It is further submitted by learned counsel for the petitioner that no specific role is assigned to petitioner.

Learned counsel for the State, on instructions from HC Surender Swamy, submits that challan has already been presented before the trial Court and this fact is not disputed, the petitioner is not involved in any other case.

Considering the submission made about, without commenting on the merits of the case, the present petition is allowed. Petitioner be enlarged on regular bail subject to his furnishing bail / surety bonds to the satisfaction of the trial Court.

16.08.2017

Hemlata

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No