

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-31790 of 2017
Date of Decision: 20.09.2017

Kasim Ali

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vimal Kumar Gupta, Advocate
and Mr. Ashik Ali, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

None for complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.159 dated 21.07.2017 registered for offences punishable under Sections 186, 307, 379 and 506 of Indian Penal Code (for short, "IPC") and 4(1) of Mining Act, at Police Station Sadar, District Yamunanagar.

Heard.

As per allegations in the FIR, a police party, comprising of complainant-Constable Raju and EHC Pardeep Kumar on the orders of higher authorities, had reached bank of Yamuna Canal, where they found that some persons were stealing the sand in 7-8 tractor-trolleys. On seeing the police, they tried to run away from the spot alongwith tractor-trolleys. Driver of the tractor-trolley of red colour, on which in place of tractor number the word 'Rajput' had been mentioned, brought the tractor-trolley towards complainant. Driver of the tractor-trolleys raised *lalkara* to teach

lesson to police so that they (police) may not interrupt them time and again from taking away the sand. Driver of red colour tractor tried to run over complainant and EHC Pardeep Kumar, who saved themselves by jumping in fields having paddy crop. The name of that tractor driver was later on found to be Abbul Hassan son of Ishak.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR. He was arrested on 12.08.2017 and his co-accused Satbir and others have been allowed anticipatory bail vide order dated 23.08.2017.

Learned State counsel submits that in the supplementary statement of Constable Raju, he has named the petitioner and has stated that by mistake name of Abbul Hassan was got recorded in the FIR, who is brother of the petitioner. It was the petitioner, who was driving the tractor and tried to run over complainant and EHC Pardeep Kumar.

It is a no injury case. The petitioner is in custody for the last more than one month. Even if, the supplementary statement of complainant be believed that the name of driver of tractor-trolley, who attempted to run over complainant and EHC Pardeep Kumar came to know as Kasim Ali-petitioner, still identity of petitioner is a point in issue in this case as complainant or EHC Pardeep Kumar was not knowing that driver personally.

Keeping in view above facts but without expressing any opinion on merits of the case and the fact that completion of investigation, presentation of challan and conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Kasim Ali is ordered to be released on regular bail on furnishing bail bond and surety bond to the

satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

September 20, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No