

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 204 of 2018 (O&M)

Date of decision : 8.2.2018

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Nitesh and another

.....Petitioners

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rajvinder Kaur, Advocate
for the petitioners

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

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H. S. Madaan, J. (Oral)

This petition for grant of regular bail has been filed by petitioners-Nitesh and Ajay Kumar being accused in FIR No.433 dated 26.8.2017 for offences under Sections 124 A, 148, 149, 436 IPC, Sections 3, 4 of Prevention of Damage to Public Property Act, 1984 and Sections 3, 4 of Explosive Substances Act, 1908, registered at Police Station Shahabad, District Kurukshetra.

Briefly stated facts of the case as per prosecution story are that Shri Ravinder Kumar, G.T.O. at Shahabad Markanda, submitted a written complaint to Station House Officer, Police Station Shahabad Markanda, District Kurukshetra, on 26.8.2017, in which he stated that Shri Zile Ram SDE (G), informed him telephonically that some

unidentified persons had set Nalvi Exchange on fire by pouring petrol on it and that the unidentified persons in order to create atmosphere of fear had caused loss to the public property. On the basis of that complaint, formal FIR was registered. As the prosecution story goes in aftermath of conviction of Gurmeet Ram Raheem, Head of Dera Sacha Sauda, his followers had indulged in arson and destroying public properties.

It is the case of prosecution that the mob comprising of followers wanted to spread unrest and fear in the general public by setting the exchange on fire. A total loss of Rs.1,91,000/- was caused by damage to the telephone exchange. The accused were arrested in this case and they are behind bars since 26.8.2017.

The petitioners had moved application for regular bail but the same was declined by the Additional Sessions Judge, Kurukshetra, vide order dated 2.1.2018, as such they have approached this Court by way of filing the present petition, craving for similar relief, notice of which was issued to the respondent State, which has put in an appearance through counsel contesting the petition.

I have heard learned counsel for the petitioners and learned State Counsel besides going through the record.

The petitioners are not specifically named in the FIR though their name cropped up during the investigation. No doubt allegations against them are quite serious. No body can be allowed to take law into his own hands and go to the extent of destroying the public properties, causing a sense of fear in the minds of people. However, at the same time, it has to be kept in mind that the guilt of the

petitioners would be determined during the trial. They do not come out to be a hardened criminals. If after the trial they are found to be guilty, they would be convicted and punished suitably. However, keeping in view the fact that the trial is at initial stage and will take considerable time for conclusion and several similarly placed persons have been granted the concession of bail, therefore, it shall be in the fitness of the things to grant regular bail to them, though on stringent terms and conditions.

Accordingly, the petition is allowed. The petitioners are ordered to be released on bail subject to their furnishing personal and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Kurukshetra, subject to the following terms and conditions:-

- i) that the petitioners would deposit a sum of Rs.25,000/- each in the Court towards cost of destruction of public property, keeping in view the part attributed to them as per prosecution case.
- ii) that the petitioners shall appear in the Court on each and every date of hearing;
- iii) that the petitioners shall not, try to tamper with the prosecution evidence;
- iv) that the petitioners shall not leave India without the prior permission of the Court and shall surrender their passport, if they have got one, otherwise to furnish affidavit in that regard.

The bonds be accepted on the conditions aforesaid and on deposit of the amount as at (i). In case the petitioners violate any term and condition on which the bail has been granted to them, this order shall be liable to be withdrawn.

8.2.2018

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**(H.S. Madaan)
Judge**

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No