

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-35663 of 2018
Date of Decision: 24.09.2018

Satbir @ Sonu

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amaninder Preet, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

SURINDER GUPTA, J.

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.117 dated 05.03.2018 registered for offences punishable under Sections 398/401 of Indian Penal Code (for short, "IPC") and 25 of the Arms Act, at Police Station Ganaur, District Sonapat.

Heard.

As per FIR registered in this case, on 01.02.2018 (in fact 04.03.2018), a police party headed by ASI Jitender Singh was present on the bridge drain in the area of village Lalheri Kalan, Ganaur, when it received an information that Sanjay @ Pehalwan and Satbir @ Sonu (petitioner) were present on the turn of Rajlugdi *chowk*, Lalheri Kalan with weapons in order to loot the passerby. On receipt of information a raiding party was prepared. Two police officials were sent ahead as public persons with direction to raise noise by calling '*loot liya loot liya*' in case they were attempted to be looted and police party followed them. ASI Jitender Singh

observed that two police officials, who were going ahead, were asked by petitioner and his accomplice to hand over whatever they had in their possession by showing them the weapon. ASI Sikandar raised an alarm by saying '*loot liya loot liya*'. Both the persons were nabbed and two country made pistols were recovered from their possession. On unloading the pistols recovered from Sanjay @ Pehalwan, one live cartridge was found loaded while other culprit told his name as Satbir @ Sonu (petitioner) from whom one country made pistol and two other country made pistols from black coloured cloth tied around his waist were recovered. Five live cartridges from that piece of cloth and one live cartridge loaded in 12 bore country made pistol were recovered and taken into possession.

Learned counsel for the petitioner has argued that it is a case where petitioner has been falsely implicated. He was undergoing sentence in a murder case, which was suspended vide order dated 06.10.2017. Thereafter, the police tried to implicate him in some false case and a representation to this effect was made to chief Minister, Haryana levelling allegation that he was picked up by Sonapat Police and asked to give arms and money or be a secret informer. This application was given on 29.12.2017. He has also drawn my attention towards mistakes of dates in the FIR and change of date from 04.02.2018 to 04.03.2018 in all the documents prepared at the spot.

Learned State counsel on instructions from ASI Satbir Singh has argued that so far as allegation of false implication of petitioner in this case is concerned, the same has no merit. He has, however, conceded that there is mistake in mentioning the date of incident in the FIR, where it is recorded that police party was present on 01.02.2018 at bridge drain in the

area of Village Lalhari Kalan while in fact the police party was present on 05.03.2018 and in the *ruqa*, the date was mentioned as 04.02.2018. The date mentioned in the FIR appears to be a typographical mistake. The investigating officer put date as 04.02.2018 instead of 04.03.2018 under the impression that it was 04.02.2018 on that day and this date was later on rectified in all the memos. This may be due to mistake in mentioning the month of incident as February instead of March. However, perusal of entire *ruqa* and memos shows that incident is of 04.03.2018.

So far as allegation of false implication of petitioner is concerned, this plea of petitioner cannot be accepted at this stage merely because of the fact that he had moved an application before the Chief Minister apprehending his false implication. In the *ruqa* and memos prepared at the spot, the date has been mentioned as 04.02.2018 instead of 04.03.2018. All the memos have similar mistake, which appears to be also in the *bona fide* belief of the person, who prepared the memos, that it was 04.02.2018 on that day. Such an impression could be the result of rush of work and heavy pressure on the mind of police officials but it is a matter to be seen by the trial Court while recording the evidence.

Keeping in view the fact that it is a case where witnesses are police officials, who cannot be prevailed upon; challan in this case has already been presented; and conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Satbir @ Sonu 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 24, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No