

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

**CRM-M No.40767 of 2018
Decided on: 20.09.2018**

Satwinder Singh and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.479 dated 22.08.2018, for offence punishable under Section 379-A of the Indian Penal Code (in short 'IPC'), registered at Police Station City Yamuna Nagar, District Yamuna Nagar.

Counsel for the petitioners has submitted that as per the allegations in the FIR, which was got registered by one Dharampal, it is stated that he is a truck driver and is driving the truck bearing registration No.HR-64-5574 owned by one Gurcharan and on 21.08.2018, when he has gone to Yamuna Nagar, 05 Sikh persons came in a Swift car and took away the truck from him, after giving slaps to him. It is further submitted that, in fact, petitioner No.1 is the registered owner of the truck and vide an agreement of sale dated 02.07.2018, petitioner No.1 has given the said truck to employer of the complainant

i.e. Gurcharan. With reference to the said agreement of sale (Annexure P3), it is stated that it is mentioned in the agreement itself that petitioner No.1 is the registered owner of the vehicle and the same is hypothecated with Escort Small Finance Bank Limited and Gurcharan had agreed to pay the monthly installment of Rs.22,020/- and it was further agreed that petitioner No.1 will have a right to get the vehicle resumed in case, Gurcharan fail to pay even a single installment.

Counsel for the petitioners has further argued that the regular bail of the petitioners was filed before the Additional Sessions Judge and the SHO, Police Station City Yamuna Nagar, has submitted a report on 29.08.2018, in which it is stated that the purchaser of the truck i.e. Gurcharan was issued a notice asking him to produce the copy of the receipts/bank statement, showing the payment of the installment to the aforesaid finance company/bank as per the agreement to sell but till date, no such document has been produced by him. Counsel for the petitioners has, thus, submitted that in the background of the aforesaid undisputed facts, it will be a debatable issue whether Section 379-A IPC is made out against the petitioners or not as primarily it is a dispute regarding an agreement to sell of the vehicle in dispute.

It is also submitted that the petitioners are in judicial custody since 24.08.2018, they are no more required for further investigation and conclusion of the trial will take some time.

Counsel for the State, on instructions from SI Gurbakshh Singh, has, however, submitted that 03 more accused persons are yet to be arrested and the investigation is still going on.

Without commenting anything on merits of the case,

considering the fact that petitioner No.1 is the registered owner of the vehicle and it is a financed vehicle and also considering the fact that there was an agreement of sale between petitioner No.1 and Gurcharan Singh (employer of the complainant) with a rider that in case he fails to deposit a single installment, petitioner No.1 will have a right to re-possess the vehicle; conclusion of the trial is likely to take some time and the petitioners are no more required for further investigation, this petition is allowed and the petitioners are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

20.09.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No