

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

**CRM-M-45616-2018
Date of decision: 25.10.2018**

Sonu @ Buda

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sanjeev Kumar Panwar, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 439 dated 25.06.2016, under Sections 148, 149, 323, 506, 384, 307, 120-B of the IPC and Section 25 of the Arms Act, 1959, registered at Police Station Sector 7, District Faridabad.

Learned counsel for the petitioner submits while granting regular bail to co-accused Satpal @ Satya Parkash on 22.10.2018, the following order was passed in CRM-M-44558-2018:

“Learned counsel for the petitioner submits that as per the allegations in the FIR, got registered at the instance of complainant Amit Singla, it is stated that on 24.06.2016 at about 8:30 PM, when he was going towards S.R.M. Mall, suddenly 5/6 boys came in front of him, out of which, he knew two boys whose names were Habdu and Dinesh Mujhedi. The boys

surrounded the complainant and started beating him and when the complainant cried for help, Habdu took out the country made pistol from the pocket of his pant and fired at complainant, however, the same did not hit him. Thereafter, Habdu asked the complainant that if he fails to pay Rs. 1 Lakh to Satpal, then he will face the consequences.

Learned counsel for the petitioner further submits that the FIR was registered on 25.06.2016 and the petitioner was arrested on 30.03.2018 and during interregnum, the police was conducting the investigation.

Learned counsel for the petitioner has referred to order dated 30.03.2018, passed by the JMIC, vide which, the petitioner was sent to judicial custody on a request made by the police and it was noticed that while recording zimni No. 25 dated 24.08.2017, during investigation conducted by ASI Darshan Lal, SI Rajbir Singh and SI Yadram, it had come that neither the demand of extortion was made nor any fire arm was used and accused Habdu did not fire at the complainant.

Learned State counsel has placed on record copy of zimni No. 25 in vernacular form and a perusal of the same shows that on the basis of an earlier zimni No. 13, during investigation, conducted at the spot and after recording of the statement of the witnesses under Section 161 Cr.P.C., the incident of firing was not found and the demand of money from the complainant was also not made.

Learned counsel for the petitioner has further referred to the statement of complainant Amit Singla, who appeared as PW-1, to submit that in his

examination-in-chief, he has failed to identify the accused persons present in Court by saying that *“accused present in the Court are not the same person who attacked me.”* Thereafter, the said witness was declared hostile by the public prosecutor.

Learned counsel for the petitioner further submits that as per the custody certificate, though the petitioner is involved in three other cases, out of which one case pertains to Section 42 of the Prisons Act, one is under the provisions of Arms Act and the one is under Sections 420, 120-B IPC, however, the petitioner is on bail and he stands acquitted in five other cases.

Learned State counsel, on instructions from ASI Darshan Lal, has not disputed the aforesaid facts and as per the photocopy of the zimni No. 25 dated 24.08.2017, it is also not disputed that at initial stage, it was not verified by the police that demand of money or firing incident had taken place.”

Learned counsel for the petitioner further submits that the petitioner is not involved in any other case.

Learned State counsel, on the basis of the custody certificate and on instructions from ASI Pardeep Kumar, has not disputed the aforesaid facts and has also not disputed that as per zimni No. 25 dated 24.08.2017, the police, during investigation, could not verify the demand of money or that firing incident had taken place.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and also in view of the fact that petitioner is in judicial custody since 02.08.2018; the instant petition is allowed. The petitioner is

ordered to be released on regular bail on his furnishing bail bonds and two sureties of the like amount to the satisfaction of the trial Court/Duty Magistrate concerned.

October 25, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No