

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

CRM-M No. 50591 of 2018
Date of decision : February 05, 2019

Kulbir @ Kulbeer

..... Petitioner

v.

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Navmohit Singh, Advocate
for the petitioner.

Mr. Himmat Singh, DAG Haryana

Mr. Manoj Tanwar, Advocate
for the complainant.

Ajay Tewari, J (Oral)

The petitioner seeks grant of regular bail in case FIR No.190, dated 21.4.2018, registered under Sections 341, 379B, 395, 397, 307, 506, 427 of the IPC and Section 25 of the Arms Act, at Police Station Mohindergarh.

As per allegations, the victims were travelling in a Bolero jeep and when they were overtaking, they were forced to stop by five persons on two motor cycles. Shots were fired at the victims and they were robbed off money and mobile phones. It is stated that one of the victims is still in critical condition.

Counsel for the petitioner has argued that the petitioner has

now been in custody for about nine months and was arrested only on the basis of a disclosure statement of a co-accused and nothing has been recovered from him. As per him, in the FIR suspicion was raised at some other persons who were found innocent and the petitioner and other co-accused were falsely implicated.

On the other hand, counsel for the complainant, as well as learned DAG Haryana state that it is a serious case of an attempt to murder and armed robbery and the petitioner does not deserve the concession of bail.

One interesting fact is that the petitioner was arrested after 18 days. There was no statement in the FIR that the attackers had muffled their faces. In these circumstances, the easiest thing for the investigating agency would have been to conduct a test identification parade. If in such a test identification parade in the presence of a Magistrate, the victims or any of them had identified the petitioner or any other co-accused as being the attacker, the situation would have been entirely different. It is infact mystifying why in such cases the police does not conduct test identification parade because such an exercise not only helps in nailing the accused but also reduces the burden of proof in the subsequent trial. Conversely the absence of test identification parade in such a case raises a doubt and any doubt at any stage would have to go to the benefit of the accused. It is not disputed that the petitioner has been in custody for the past about 9 months. In these circumstances, without commenting upon the merits of the case, and keeping in view the period of custody already suffered by the petitioner, I do not deem it appropriate to deny the concession of regular bail to the petitioner.

Bail to the satisfaction of the trial Court/Duty Magistrate.

Petition stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

February 05, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No