

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

CRM-M 15452-2020

Date of Decision : June 26, 2020

Radhey		Petitioner
	Versus	
State of Haryana		Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Keshav Pratap Singh, Advocate
 for the petitioner.

 Mr. R.K. Ambavat, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

 This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.1006 dated 23.12.2018 under Sections 364-A, 34 IPC and Section 25 of the Arms Act, registered at Police Station Sadar Palwal, District Palwal.

 Counsel for the petitioner has submitted that as per the allegation in the FIR registered at the instance of Katar Singh, his nephew Sandeep @ Sunny informed him that a person, named, Radhey has taken him away and is demanding a ransom of Rs.15 Lacs. Later on, the police conducted a raid and recovered the nephew of the complainant.

 Counsel for the petitioner further submitted that while granting bail to the two of the co-accused on the same day, i.e. 6.2.2020, when the regular bail of the petitioner was withdrawn, it was observed as under :-

 “Counsel for the petitioners, at the very outset,

submits that he may be permitted to withdraw this petition qua petitioner No.3 namely Radhey son of Rajmuni, at this stage.

Ordered accordingly.

Counsel for petitioners has argued that the petitioner No.1 namely Rajbir @ Banti and petitioner No.2 namely Mohit Singh Parmar are in judicial custody for the last more than 01 year and they are not involved in any other case. It is further submitted that the trial Court has already recorded the statement of the complainant Kartar Singh, who appeared as PW1 and in his examination-in-chief, he has not supported the prosecution version. This witness was declared hostile and was cross-examined by the Public Prosecutor, in which he has even, denied the contents of the statement Ex.PW1/A, given by him to the police. It is further argued that the victim namely Sandeep @ Sunny was examined as PW2 and he has stated that when he had gone to Agra on 22.12.2018, he met a person, who introduced himself as Radhey and had taken him to some unknown place at Madhya Pradesh where he was confined and a demand of Rs.15 lacs was made from his house. This witness did not identify the petitioners No.1 and 2. This witness was also declared hostile and in his cross-examination, he has denied the statement Ex.PW2/A, which was made before the police. This witness in his cross-examination by defence counsel has also stated that he has not seen the accused persons, present in the Court before.

Counsel for the State, has filed the Custody Certificate today in the Court and has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the

case, considering the fact that the petitioners are in custody for the last more 01year; they are not involved in any other case; the complainant and the victim have been declared hostile and conclusion of the trial will take some time, this petition is allowed and the petitioners No.1 and 2 namely Rajbir @ Banti and Mohit Singh Parmar, 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.”

Counsel for the petitioner further submits that even both these witnesses have not identified the petitioner as the person Radhey. The victim, i.e. PW2 Sandeep @ Sunny has further stated that he has seen the accused persons and the person who met and introduced himself as Radhey, is not present in the Court. Counsel for the petitioner submits that it is a case where the identity of Radhey is yet to be established by the prosecution.

Counsel for the petitioner further submits that since the time when his first petition was withdrawn, till date no further prosecution evidence has been recorded and only the official witnesses remained to be examined.

Counsel for the State, has not disputed the factual position and stated that the petitioner is not involved in any other case.

Without commenting anything on merits of the case,

considering the fact that the petitioner is not involved in any other case; he is in custody and both the complainant and the victim have not identified him and the other accused, this petition is allowed and the petitioner is directed to be released on bail subject to his 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 petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

June 26, 2020

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