

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

212

CRM-M-16998-2020
Date of decision: 17.08.2020

Rahul @ Dinu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Lakshman Sharma, Advocate
for the petitioner.

Mr. Naveen Singh Pawar, DAG Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.0011 dated 03.01.2019 registered at Police Station Sadar Bhiwani, District Bhiwani initially under Sections 395 and 397 of the Indian Penal Code, 1860 (for short, "IPC") and Section 25 of the Arms Act, 1959 which were later changed to Sections 392 and 397 of the IPC, Section 25 of the Arms Act, 1959 and Section 83(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

As per the allegations made in the FIR on 03.01.2019 when complainant-Hawa Singh was present at poultry farm in village Kohad, accused-Kirori along with two other boys came and demanded keys of his vehicle and when Hawa Singh asked the reason for such demand, Kirori fired a shot with his country made pistol causing injury on his head. The other two boys, who also had country made pistols, also fired shots at him. On receipt of injuries-Hawa Singh fell down on which Kirori snatched the keys from Hawa Singh and sped away in the vehicle of Hawa Singh. Om Parkash reached on the spot and arranged for hospitalization of Hawa Singh at General Hospital, Bhiwani.

The petitioner, who is in custody since the date of his arrest, has filed the present petition for grant of regular bail.

Learned State Counsel has appeared and opposed the petition in terms of reply filed by way of affidavit of Sh. Virender Singh, HPS, Deputy Superintendent of Police, Bhiwani.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has argued that the petitioner was not named in the FIR. The complainant merely identified co-accused Kirori and did not give any particulars of other boys accompanying him. No test identification parade was conducted. During trial prosecution witnesses Om Parkash and Jagdish have not supported the case of the prosecution. The Investigating Officer had recovered CCTV camera footage from the poultry farm but neither the contents of the said footage have been declared nor the Investigating Officer has claimed any aid thereof in identification of the petitioner. In any case, the CCTV footage is inadmissible in evidence for want of certificate under Section 65B of the Evidence Act. No recovery was made from the petitioner. There is no material to connect the petitioner with the crime. The petitioner is not involved in any other case. The trial is likely to take long time due to restrictions imposed to prevent the infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that the petitioner along with his co-accused robbed vehicle of complainant-Hawa Singh by causing injuries to him with fire arms. In view of the gravity of accusation the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence and in case of commission of similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

17.08.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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