

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

212

**CRM-M-19642-2020
Date of decision: 10.08.2020**

Avtar Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Satbir Singh Gill, Advocate
for the petitioner.

Mr. Anant Kataria, 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 short, "the Cr.P.C.") for grant of regular bail in case FIR No.39 dated 11.02.2020 registered under Section 392 of the Indian Penal Code, 1860 (for short, "IPC") at Police Station Sadar Sirsa, District Sirsa to which Section 395 of the IPC was added lateron.

The above said FIR was registered on the complaint submitted by Surat Singh. In the said complaint Surat Singh alleged that on 31.10.2019 he along with Dungar Singh, Conductor loaded wheat on truck bearing registration No.HR46D/9257 from Sirsa and left for Rohtak at about 10:00 P.M. When they reached Nezadela by-pass, 4-5 persons came on two motorcycles and stopped their truck. Two of them with muffled faces boarded the truck and asked him to hand over

whatever they possessed and threatened to shoot them if he failed to do so. Remaining persons were armed with lathies. He handed over amount of Rs.2,500/- to them due to fear. They snatched mobile phone from Dungar Singh, Conductor.

The petitioner, who is in custody since his arrest on 06.04.2020, has filed the present petition for grant of regular bail.

Learned State counsel has opposed the petition. However, no reply has been filed by the respondent-State.

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 incident took place on 31.10.2019 but the FIR was lodged with undue, unexplained and unreasonable delay of more than three months. The petitioner has been falsely implicated in the case. The petitioner had no connection with other co-accused and was not involved in the crime. There is no incriminating evidence against the petitioner. Similarly placed co-accused Hunny has already been granted regular bail by this Court vide order dated 03.07.2020. The trial is likely to take long time and 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 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 parity with his co-

accused Hunny who has already been granted regular bail by this Court vide order dated 03.07.2020 coupled with the fact that the trial is likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner may be extended the concession of regular bail.

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 after his release on bail 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.

Before parting with this case it may be observed that the police is expected to take prompt action for registration of FIR and investigation on the basis of complaint disclosing cognizable offence. Any inaction on the part of police not only leads to erosion of faith of the people in the efficacy of the entire machinery devised for administration of criminal justice but also weakens the rule of law which is the very foundation of the democracy.

In the present case, written complaint dated 31.10.2019 was given by Surat Singh and Dungar Singh in the police station but no FIR was registered despite the fact that the same disclosed commission of cognizable offence. The FIR was registered on 11.02.2020 only after complaint was made on CM Window.

In the facts and circumstances of the case, Superintendent of Police, Sirsa is directed to enquire into the matter and to take appropriate disciplinary action against the defaulting police officers/officials and send report regarding action taken against the defaulting officers/officials to this Court within one month from the date of passing of this order.

A copy of this order be sent to learned State counsel and Superintendent of Police, Sirsa for information and requisite compliance.

10.08.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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