

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(210)

CRM No. M-20599 of 2020
Date of Decision : 11.08.2020

Parvej

....Petitioner

Versus

State of Haryana

....Respondent

(Through Video Conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Lekhraj Nandal, Advocate for the petitioner.

Mr. Vishal Malik, Deputy Advocate General, Haryana

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No. 348 dated 28.09.2019, under Sections 392, 397 IPC (Section 379-B, 34 and Section 25 of Arms Act, 1959, deleted later on) registered at Police Station Sector-56, District Gurugram.

Learned counsel for the petitioner submits that the allegation against the petitioner is with regard to snatching of the mobile phone alongwith other co-accused, namely, Nahid and one Akil. Learned counsel for the petitioner further submits that the similarly situated co-accused, against whom the similar allegations have been made, have already been granted the benefit of regular bail by this Court while deciding CRM No. M-20024 of 2020 vide order dated 10.08.2020.

Notice of motion.

Mr. Vishal Malik, learned Deputy Advocate General, Haryana,

who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent-State. Learned State counsel on instructions from ASI Ajeet states that he does not dispute that the allegation against the petitioner as well as Nahid are identical in the FIR. Learned State counsel further does not dispute that Nahid has already been granted the concession of regular bail by this Court while deciding CRM No. M-20024 of 2020.

I have heard learned counsel for the parties and have gone through the record very carefully.

It is not disputed that the allegation against the petitioner is with regard to the snatching of the mobile phone. The similar allegation is also alleged against co-accused, namely, Nahid. Once, a similarly situated co-accused has been granted the concession of regular bail, the same cannot be denied to the petitioner unless and until some differentiating facts are brought on record. In the present case, learned State counsel very fairly conceded that the allegations against the petitioner and co-accused Nahid are identical. In the similar facts, this Court has granted regular bail to co-accused Nahid while deciding CRM No. M-20024 of 2020 on 10.08.2020, which order is as under:-

“The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 348 dated 28.09.2019, under Sections 34, 379-B Indian Penal Code and Section 25 of Arms Act (added later on Section 392 and 397 IPC) (Section 379-B IPC deleted later on), registered at Police Station Sector 56, District Gurugram.

Learned counsel for the petitioner at the very outset contends that the petitioner herein was taken into custody after the filing of the said FIR and that Section 379-B IPC has been deleted while submitting that the petitioner has been falsely

implicated in the present case. The defence set up by learned counsel for the petitioner is that the petitioner was arrested only on the ground that 02 mobile phones alleged to have been looted from the complainant were recovered from his possession, whereas in fact he had bought the said phones from the other accused and on inserting SIM in the said phone, his location was traced. It is further argued that no other recovery has been effected from him like the Wagon car, which was found abandoned, apart from submitting that no other case is pending against the petitioner and that the conclusion of trial will take sufficient time, therefore, the petitioner is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that offences alleged against the petitioner are serious in nature, however, does not dispute the fact that Section 379-B IPC has been deleted later on and that the challan stands presented in the matter.

I have heard learned counsel for the parties.

In view of the restricted working of the Courts due to pandemic COVID-19 situation, the trial is likely to take some time and in view of the facts that the petitioner herein has been in custody and that Section 379-B IPC has been deleted later on and the challan stands presented, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

Once, no differentiating fact has been brought on record

between the petitioner and co-accused Nahid, petitioner has made out a case for the grant of regular bail.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not obstruct the trial in any manner or influence the witnesses, whose statement is yet to be recorded and in case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

August 11, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*

Whether reportable? *No*