

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

104

(PROCEEDINGS THROUGH V.C.)

CRM-19273-2020 & CRM-M-54497-2019

DATE OF DECISION: AUGUST 18, 2020

Mahender

.....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Vinod Ghai, Sr.Advocate with
Ms. Kanika Ahuja, Advocate,
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana,
for the State.

AUGUSTINE GEORGE MASI, J. (ORAL)

CRM-19273-2020

Prayer in the present application is for preponing the date of
hearing from 01.09.2020 to some early actual date.

For the reasons mentioned in the application, the same is
allowed and the hearing of the main case is preponed to today and the main
case is taken on board for hearing.

CRM-M-54497-2019

Prayer in this petition is for grant of regular bail to the
petitioner in case FIR No.51, dated 24.02.2019, registered under Sections

379-B, 396 IPC, at Police Station Nangal Chaudhri, District Mahendergarh, though report under Section 173 Cr.P.C. has been presented under Sections 396, 379B, 302, 201 IPC.

It is the contention of learned senior counsel for the petitioner that the petitioner is not named in the FIR and it is on the basis of the supplementary statement of the complainant that he has been involved in the commission of offence, which again is a hearsay evidence, which cannot be relied upon. That apart, he asserts that no recovery has been effected from the petitioner, which would directly connect the petitioner with the commission of offence. Even as per the assertion of the prosecution, there is a video recording of the incident on the mobile phone of the petitioner, which has been recovered at his behest. He also contends that even the petitioner being at the site would not in any case involved him in the commission of offence. As per the prosecution itself, the video does not clearly indicate that the petitioner was present at the site. The petitioner was arrested on 04.03.2019 and is in custody since then. Although three witnesses remained to be examined but the position remains the same as since January 2020, as is apparent from the proceedings before the trial Court in the prevailing pandemic, the trial is not proceeding. Otherwise also, the three prosecution witnesses, who are left to be examined, are all police officials and, therefore, the petitioner be granted the concession of bail.

Learned counsel for the State, on the other hand, submits that the petitioner is clearly involved in the commission of offence as it is apparent that it is his mobile, which contained the recording of the incident.

The mobile, which has been recovered at his behest, throws light on this

aspect and, thus, it cannot be said that he is innocent. The other factual aspects with regard to remaining witnesses and the period of custody of the petitioner could not be denied by counsel for the State.

Having considered the submissions made by counsel for the parties and keeping in view the custody period of the petitioner as also the fact that only three witnesses, who are police officials, remained to be examined, chances of the petitioner influencing them would be rare and further the trial being not proceeded with because of prevailing pandemic, the present petition is allowed. The petitioner is directed to be released on bail to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate, Narnaul.

August 18, 2020
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE