

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.5596 of 2021 (O&M)

Decided on: 12.02.2021

Rajender

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ashit Malik, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.4 dated 02.01.2020, for offence punishable under Sections 148, 149, 323, 325, 427, 506, 395, 397, 379-B of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station City Thanesar, District Kurukshetra.

Counsel for the petitioner has relied upon the order dated 23.06.2020 passed in CRM-M No.14257 of 2020, vide which one of the co-accused namely Mohit @ Bunti was granted the concession of regular bail. The operative part of the said order, reads as under:-

“Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of Rakesh Sharma, he along with 02 other persons namely Manish Kumar and Rajesh Kumar Bansal were traveling in a vehicle when the accused persons named in the FIR as Malkiat Singh and Pardeep stopped their vehicle and along with other 5-6 persons caused injuries and snatched

a bag containing Rs.50,000/- and has also caused damage to their vehicle. It is further submitted that the petitioner was not named in the FIR and his name surfaced on account of the disclosure statement of the aforesaid accused persons.

Counsel for the petitioner has further submitted that the recovery of a gandasi bamboo is also effected from the petitioner and during the investigation, as per the opinion of the doctor that all the injuries sustained by the 03 injured persons were blunt in nature, Section 304 IPC was deleted. It is further argued that though the allegation in the Fir are that the accused persons have caused injuries with the gandasi, however since, there was no such injuries corresponding to the alleged weapon used, the police has deleted Section 324 IPC. It is also submitted that a perusal of the report under Section 173 Cr.P.C., show that nothing is mentioned as to how Section 395 and 397 IPC were added without there being any injury.

Counsel for the petitioner has referred to the FIR No.1368 dated 14.12.2019 registered under Sections 148, 149, 323 IPC at Police Station City Thanesar, District Kurukshetra, which was got registered by one of the co-accused – Malkiat Singh against one of the injured Manish and 03 other persons with a similar allegation that the accused persons caused injuries to him and snatched Rs.3200/-. It is further submitted that in fact, on account of business rivalry, the present FIR has been registered as a counter-blast to the aforesaid FIR and to aggravate the same, Sections 395 and 397 IPC have been added, which are yet to be proved during the course of trial.

Counsel for the petitioner has also argued that the petitioner is the first offender and is not involved in any other case and the challan has already been presented and the petitioner is no more required for further custodial

interrogation.

Counsel for the State has argued that the complainant has given a CCTV footage in which the presence of the petitioner was found.

After hearing the counsel for the parties and considering the respective submissions made by counsel for the parties, I find merit in the present petition.

Without commenting anything on merits of the case, considering the fact that the petitioner was not named in the FIR and the possibility of registration of the present FIR as a counter-blast to the earlier FIR registered against one of the injured witness is yet to be seen during the course of trial; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, 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/Illqa Magistrate/Duty Magistrate.”

Counsel for the petitioner has further submitted that even the other co-accused of the petitioner namely Pardeep Kumar and Malkeet Singh, have also been granted the concession of bail vide order dated 23.12.2020 passed in CRM-M Nos.18108 and 24834 of 2020.

For the sake of brevity, facts are not reproduced again as they are noticed in the aforesaid orders.

Counsel for the petitioner has further submitted that though the petitioner is involved in some other FIRs, however, he is either been acquitted or is on bail in other cases and in fact, there is a business rivalry between the complainant party and the petitioner and on that account, he has been implicated in this case as noticed in the aforesaid orders.

Counsel for the petitioner has further submitted that the petitioner is in custody since 21.01.2020, challan stands presented and the case is now fixed for framing of charge and as per the challan, there are 17 witnesses cited in the challan, which are yet to be examined.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that the petitioner is involved in some other cases, however, in some of the cases, he is already on bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 21.01.2020; challan stands presented; charge has not yet been framed; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, 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/Illaqa 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

12.02.2021

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No