

CRM-M-7175-2021

Date of Decision: 08.03.2021

Suresh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGHPresent:- Mr. Sachint Punia, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.353, dated 23.07.2019, having been registered at Police Station HTM, Hissar, alleging therein the commission of offences punishable under the provisions of Sections 342/364A/386/506/120-B of the IPC read with Section 34 thereof.

This is the second such petition filed by the petitioner, with the first one, i.e. CRM-M-304-2020, having been dismissed by this court by a somewhat detailed order passed on 17.11.2020, which reads as follows:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in case FIR no. 353 dated 23.07.2019, registered at Police Station HTM, District Hisar, for the alleged commission of offences punishable under Sections 342/364-A/506/34 of the IPC and Section 25 of the Arms Act, 1959.

Learned counsel for the petitioner submits that the petitioner is similarly placed as his co-accused Vinod, who was admitted to bail by the learned Additional Sessions Judge, Hisar, on 07.07.2020, on the ground that he was never identified by the complainant and that the only allegation against him was that he had a conspirator in the crime.

Learned State counsel, on the other hand, submits that as per the affidavit of the Assistant Superintendent of Police,

Hisar, dated 30.09.2020, the petitioner was actually identified in a identification parade carried out, as one of the persons who actually kidnapped the complainant.

Though learned counsel for the petitioner submits that he has not received a copy of that affidavit, it is seen to be on record and paragraph 3 thereof does state to that effect.

Consequently, though the petitioner is stated to have been in custody for almost one year and four months, with the trial obviously not progressing, however looking at the nature of the offences stated to have been committed and with learned State counsel pointing out that as regards the offence punishable under Section 364-A of the IPC, the maximum punishment imposable is death or imprisonment for life, I see no ground to entertain this petition, which is consequently dismissed.

In view of the above, the prayer made by learned counsel for the petitioner for adjournment of the matter for a 'long date', is also declined.

However, the trial court is directed that once normal court proceedings commence and witnesses start getting examined (with the trial obviously not proceeding normally due to the COVID-19 pandemic), short dates would be given by that court to try and ensure that the trial concludes at the earliest.

At this stage, learned counsel for the petitioner also submits that he may be permitted to withdraw the present petition.

In view of the fact that detailed arguments have been addressed, that prayer is also declined.

It is also however made clear that nothing stated hereinabove will be taken to be an observation by this court on the merits of the case, which naturally would be gone into by the trial court wholly on the basis of the evidence led before it.”

Today learned counsel for the petitioner however points to the testimony of the complainant, i.e. PW1, Rajender Kumar, from which he specifically points to that part of his cross-examination (after cross-examination had been asked for by the Public Prosecutor), in which he specifically stated that the petitioner (Suresh), Anoop, Sanjay and Dharam Chand alias DC, were not those persons who had kidnapped him, beaten and threatened him.

Learned State counsel also submits that, as per his instructions from ASI Mahinder Singh, the complainant had only testified against accused Vinod but had in fact stated that the other co-accused were not those who had kidnapped him.

That being so, that being a material difference in circumstance since the petition first filed by the petitioner was dismissed, without making any comment on the actual merits of the case, the petition is allowed and the petitioner is ordered to be admitted to bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

March 08, 2021

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO