

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

212

CRM-M-7835 of 2021 (O&M)

Date of decision:30.09.2021

Rajesh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Pushpinder Kaur, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.486 dated 12.10.2019 registered under Sections 148, 149, 186, 224, 225, 323, 332, 353, 379-B, 506 of Indian Penal Code, 1860 (for short "IPC") at Police Station City Tohana, District Fatehabad (Annexure P-1).

As per the version of the prosecution, FIR (Annexure P-1) came to be registered when a police party went to the house of the petitioner to arrest him as he had been declared as Proclaimed Offender by the Court of Sub-Divisional Judicial Magistrate, Tohana, vide order dated 05.08.2019

in FIR No.91 dated 02.03.2018 registered for offences under Sections 323, 341, 506, 34 of IPC. It has been alleged that though the petitioner was found standing outside his house but he fled when he saw the police party. Effort was made to apprehend him but in the meantime, his family members, including some ladies, came on the spot, who were armed with wooden sticks and assaulted the police officials. Three police officials received injuries and their uniform was torn. Allegation has also been levelled that Naresh @ Chhoti and Kiran snatched a purse containing Rs.2700/- and some important documents from the complainant. The officials got themselves treated from the Government Hospital.

At the outset, counsel for the petitioner has urged that the first petition (CRM-M-43234-2020) was withdrawn vide order dated 04.01.2021, Annexure P-2, and now the charges have been framed and the trial is fixed for leading of prosecution evidence, which according to the counsel, is change in the circumstances, enabling her to maintain the second petition. Counsel submits that though the petitioner is allegedly involved in number of cases but insofar as the present FIR is concerned, there is no allegation of assaulting the police officials or of snatching against the petitioner. Counsel submits that this is a case of police excesses as is apparent from the photographs, Annexure P-4, which show a lady, who, according to counsel, is the wife of the petitioner, with bruises on her shoulder and arms. She submits that in order to cover the atrocities committed on the family members of the petitioner, the police officials lodged the present FIR accusing the family members of the petitioner of

attacking them. She submits that the petitioner, who is in custody since 10.08.2020 is no longer required for custodial interrogation and the trial is likely to take time, therefore, he deserves to be released on bail.

Opposing the petition, State counsel, upon instructions from ASI Mahender Singh, submits that the petitioner is not entitled to the concession of bail as he has been convicted in 06 cases and 09 cases are pending against him. Strongly refuting the allegations levelled against police officials, State counsel contends that the family members of the petitioner obstructed the police officials when they were discharging their duties and attacked them. As per his instructions, challan has been presented on 29.09.2020, charge has been framed on 21.09.2021, though the prosecution evidence is yet to start.

I have considered the respective submissions of counsel for the parties.

Keeping in view the facts and circumstances, particularly, the nature of accusation against the petitioner, the period of incarceration which by now is more than 13 months and the fact that the trial is likely to take time to conclude, this Court is *prima facie* of the view that the petitioner deserves to be enlarged on bail.

Without examining the merits or demerits of the arguments advanced by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

While being released on bail, the petitioner shall furnish an undertaking to the effect that he will not get involved in any criminal activity in future.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

September 30, 2021
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>