

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

CRM-M-9098-2021 (O&M)

Date of decision: 28.04.2021

Tofik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Munfaid Khan, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Tofik, an accused in FIR No.178 dated 30.05.2018, for offences under Sections 323, 342, 506, 379-B and 34 IPC, registered with Police Station Ferozepur Jhirka, District Nuh.

The criminal machinery in this case was set into motion by complainant Mustak son of Nasruddin, resident of Village Poll, Tehsil Ferozepur Jhirka, who in the written complaint submitted by him to the police stated that he is a junk dealer running business at Ballabhgarh; that a month earlier, petitioner Tofik had borrowed a sum of Rs.15,000/- from him for the purpose of starting a new business, however, Tofik did not return that money to the complainant; when

complainant demanded the amount, petitioner/accused asked him to come to his village on 26.05.2018 to collect the money; the complainant accordingly went there but he was confined in a room and given brutal beatings by Tofik and his brother Kasam and others; the complainant was taken towards forest area of the village and tied with a tree; subsequently, he was rescued by his father and some other persons who were accompanying him; on the basis of such written complaint, formal FIR was recorded in the matter; the investigation in the case started; petitioner and his co-accused Kasam had absconded and they could not be arrested in this case by the police, however, they were got declared proclaimed offenders from the Court, vide order dated 15.02.2019; petitioner/accused Tofik was arrested by the police on 22.08.2020.

Petitioner Tofik had filed an application for regular bail before the Court of Sessions at Nuh. That application was assigned to Addl. Sessions Judge, Nuh, who vide order dated 14.12.2020, dismissed, the same. As such, he has approached this Court craving for grant of similar relief, by way of filing the present petition, which is being resisted by the State counsel.

I have heard learned counsel for the parties besides going through the record.

The petitioner is in custody since 22.08.2020 i.e. for a period of more than 08 months. Though the challan against him is said to have been filed but conclusion of trial is likely to take some time,

when trial is at preliminary stage with no PW having been examined as informed by the State counsel, more particularly, when the working in the Courts at district level have been adversely affected on account of unprecedented situation due to outbreak of COVID-19. The guilt of petitioner/accused shall be determined during the trial. However, considering the fact that after registration of the FIR, petitioner had absconded, appropriate terms and conditions can be imposed to ensure that he does not run away from the process of law again. However, keeping in view totality of circumstances, I find it a fit case to grant benefit of regular bail to the petitioner. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/CJM/Duty Magistrate, Nuh, subject to the following conditions:-

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses;
- (iii) he shall not indulge in any criminal activity;
- (iv) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard;

To ensure that the petitioner does not abscond, it is directed that the Magistrate accepting the bonds shall call for furnishing of some local surety having documentary proof of immovable property within the local jurisdiction of the Court and

endorsement be got made on the original document with regard to having said person stood surety for the petitioner and copy of that document be got attached with the bonds.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

28.04.2021
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No