

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(245)

CRM-M-16130-2021

Date of decision:- 02.09.2021

Sanju and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Rathore, Advocate
for the petitioners.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in case FIR No.760 dated 11.10.2020 under Sections 186, 332, 353, 506 and 379-B of the Indian Penal Code, 1860, registered at Police Station Sadar, Karnal, Annexure P-2.

As per prosecution case, FIR, Annexure P-2 was registered on the statement of Mahabir Singh, ASI on the allegation that during the course of the discharge of his duty, he saw two boys standing at the gate of

Mohidinpur Grain Market at 11:30 P.M. and when he inquired from them as to what were they doing, one of them addressed the other by the name, Sunil and told him to catch the official from behind. In the meantime, three other boys came on the spot, threatened him, snatched some of his personal items and inflicted stick blows on him. He over-heard exchange of conversation of lifting of paddy at night. The petitioners were arrested on 13.10.2020.

Counsel for the petitioners submits that the petitioners, who are not named in the FIR were running a temporary make shift Tea Stall in the Grain Market, when they were allegedly apprehended by the police official on false pretext. He submits that the petitioners have been arraigned as accused on the basis of confessional statement of co-accused, Sunil. It is his argument that such a statement recorded in police custody is inadmissible in evidence. He submits that the petitioners who are in custody, are no longer required for custodial interrogation as challan has been presented, charge has been framed and they deserve to be released on bail.

Per contra, learned State counsel, upon instructions from SI Ajaib Singh submits that a mobile phone and the car keys were recovered from accused, Rinku (petitioner No.2) whereas recovery of wooden stick has been made from accused, Sanju (petitioner No.1). As per his instructions, challan has been presented on 12.01.2021, charge has been framed on 27.07.2021, though none out of 09 prosecution witnesses has been examined.

Having considered the facts and circumstances of this case, the Court is *prima-facie* of the view that the material collected by the prosecution would remain debatable and the petitioners, who are in custody for the last more than ten months, deserve to be released on bail.

Without commenting upon the merits or de-merits of the arguments raised by the counsel for the parties, the petition is allowed. The petitioners, namely, Sanju and Rinku, who apparently belong to an economically weaker section of society and are illiterate, as is clear from the fact that they have thumb-marked the Power of Attorney, are ordered to be released on bail on furnishing their personal bond to the satisfaction of the trial Court/Duty Magistrate concerned.

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

(SUVIR SEHGAL)
JUDGE

02.09.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No