IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18385-2021
Date of decision: 21.05.2021

Vinod @ Pola **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J. S. Saneta, Advocate
for the petitioner.

Mr. Vishal Kashyap, AAG, Haryana.

(through video conferencing)

ARVIND SINGH SANGWAN, J. *(Oral)*

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 4 dated 02.01.2020, registered under Sections 148, 149, 323, 325, 427, 506, 379-B, 395, 397 of the IPC at Police Station City Thanesar, District Kurukshetra.

Learned counsel for the petitioner, at the very outset, relies upon order dated 23.06.2020 passed in CRM-M-14257-2020, vide which co-accused Mohit @ Bunti has been granted concession of regular bail by this Court. The operative part of the 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

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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

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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/Illaqa Magistrate/Duty Magistrate.

However, it is made clear that in case the petitioner is found involved threatening any of the prosecution witnesses or tried to influence them, in any manner then, it will be open for the prosecution to apply for cancellation of bail of the petitioner."

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner further submits that the allegations against the petitioner are identical to that of aforesaid co-accused. It is further submitted that some of the other co-accused, namely

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Pardeep Kumar, Malkeet Singh, Rajender and Surender Singh @ Sinder, have also been granted concession of regular bail by this Court, vide orders dated 23.12.2020, 12.02.2021 and 31.03.2021 passed in CRM-M Nos. 18108, 24834 of 2020, 5596 of 2021 and 6161 of 2021.

Learned State counsel, on the basis of the custody certificate filed today in Court, has not disputed factual position. As per custody certificate, the petitioner is in judicial custody for the last 01 year and 04 months and he is involved in more case under the Excise Act and one case under the IPC, however, he is on bail in those cases.

I have heard learned counsel for the parties.

Without commenting anything on merits of the case, considering the aforesaid submissions of learned counsel for the parties, 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 is made clear that in case the petitioner is found involved in threatening any of the prosecution witnesses or tries to influence them, in any manner then, it will be open for the prosecution to apply for cancellation of bail of the petitioner.

21.05.2021 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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