

In virtual Court

CRM-M-18655-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18655-2021 (O&M)
Date of decision: 09.08.2021

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... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ajay Kumar, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.56 dated 01.04.2018 under Section 395 IPC and Section 25/54/59 of Arms Act, registered at Police Station Loharu, District Bhiwani.

Learned counsel for the petitioner submits that the petitioner is in custody for the last 03 years, 01 month and 05 days and the complainant-victim has not supported the prosecution version. Learned counsel relies upon the order dated 16.10.2020 passed in CRM-M-25876-2020, vide which similarly situated co-accused Naveen @ Jindal was granted the concession of regular bail. The operative part of the order reads as under: -

“...Through instant petition, the petitioner is seeking regular bail in case FIR No.56 dated 01.04.2018 under Section 395 IPC and Section 25 of the Arms Act registered at Police Station Loharu, District Bhiwani.

Reply by way of affidavit of Gajender Singh, Deputy Superintendent of Police, Loharu, District Bhiwani, Haryana, on behalf of the respondent-State has been placed on record.

Briefly, the aforesaid FIR has been registered on the basis of statement of Sanjay Kumar alleging that he is working as salesman on Samadhwala filling station on Loharu Surajgarh road, owned by Vinod Kumar. The complainant alongwith Laxmi Narain and Mohinder Singh were performing duty during the night hours from 31.10.2018 at 8:00 O'clock till 01.04.2018 upto 8:00 A.M. Laxmi Narain and Mohinder Singh were sleeping on a cot and the complainant was filling the fuel. At about 4:15 AM, he had filled the fuel in a vehicle and preparing the receipt while sitting in the office. Meanwhile, a white coloured swift car came at the filling station. The complainant asked the occupants of the vehicle to bring the vehicle near the machine. Two assailants alighted from the front side and three assailants from the rear side of the car and they were in muffled faces. One of the assailants put the pistol on the temporal region and asked the complainant not to raise alarm and further threatened to kill him. The second

assailant put the iron rod on the abdomen of the complainant and pushed him inside the office. The third assailant took money from the pocket of the complainant alongwith the keys of the almirah. The almirah was locked from inside. One of the assailants tried to open the drawer of the counters but the same were also locked. They removed the LCD and DVR of CCTV, cut the wire and took away LCD and DVR. The assailants had looted Rs.41,541/- in cash and they were aged about 21 to 27 years.

It has been stated by learned counsel for the petitioner that the arrest of the petitioner was effected on 06.07.2018, the trial of the case is not progressing on account of restricted hearing due to COVID-19 Pandemic, the sole eye witness, namely, Sanjay Kumar, has not supported the prosecution version and though four other criminal cases have been registered against the petitioner but he is on bail.

Learned State counsel, on instructions from ASI Giri Raj, has not disputed the factual aspects of the matter and has stated that only 03 eye witnesses out of 21 witnesses have been examined so far.

Although, in the impugned order, it has been mentioned that Laxmi Narain and Mohinder Singh, eye witnesses to the occurrence, are yet to be examined but it has been specifically mentioned in the reply that there is only one private witness i.e. the

complainant and he has already been examined.

It has also been pointed out by the learned counsel for the petitioner that as per the version of the prosecution, Laxmi Narain and Mohinder Singh were sleeping at the filling station at the time of occurrence.

In view of the above, sufficient grounds are made out to extend the concession of bail to the petitioner and he is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned Duty Magistrate/Trial Court.”

Learned counsel for the petitioner further submits that another accused Dharmender Kumar has also been granted the concession of regular bail vide order dated 20.04.2021 passed in CRM-M-11579-2021. It is also submitted that it is case of the prosecution that three persons were having muffled faces and complainant Sanjay Kumar, while appearing as PW3, has refused to identify the accused persons as the assailants and he was declared hostile on the request of Public Prosecutor.

Learned State counsel has filed the custody certificate dated 06.08.2021 as well as status report by way of affidavit of Deputy Superintendent of Police, Loharu, District Bhiwani in the Court today and submits that the petitioner is involved in similar other cases, out of which, in one case, he stands convicted and has undergone the sentence awarded to him. It is further submitted that out of total 21 prosecution witnesses, only 03 PWs have been examined so far.

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After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in long custody of more than 03 years and out of total 21 prosecution witnesses, only 03 PWs have been examined; the trial is delayed due to COVID-19 situation and two of his co-accused have already been released on regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

09.08.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No