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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.19080 of 2021 (O&M)

Date of decision: 25.05.2021

Rahul

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. V.D. Sharma, Advocate
for the petitioner.

Mr. Sandeep Moudgill, Addl. A.G., Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.313 dated 03.10.2020, for offence punishable under Sections 394, 397, 458, 120-B of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Uchana, District Jind.

Counsel for the petitioner, at the very outset, has relied upon the order dated 18.03.2021 passed in CRM-M No.1427 of 2021, vide which the co-accused of the petitioner namely Anil Kumar @ Mundra, has been granted the concession of regular bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant-Rajender, it is stated that he is a salesman on a liquor shop and on the date of incident, when he was sleeping inside the liquor shop, he heard the noise of opening of the door and when he woke up, he saw that two persons entered into the liquor shop with an intention to rob him and one person attacked him and caused him

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injuries. Both the accused, later on fled away with cash amounting to Rs.10,000/- to 12,000/- approximately.

Learned counsel for the petitioner further submits that the petitioner has no connection with co-accused Rahul @ Bholu, on whose disclosure the petitioner was involved in the present case.

Learned counsel for the petitioner further submits that in compliance of the order dated 17.02.2021, directing the Investigating Officer to file a specific affidavit whether any call details of petitioner with the co-accused is there to show that immediately before and after the occurrence, they were talking to each other or not, an affidavit has been filed and in para 12 of the said affidavit, it is stated that as per the call detail records for the period 02.10.2020 to 04.10.2020, there were no calls between the petitioner and the co-accused, however, later on, during investigation co-accused Rahul @ Bholu disclosed the name of the petitioner.

Learned counsel for the petitioner further submits that petitioner is in judicial custody for the last about 04 months and 19 days and is not involved in any other case.

Learned State counsel, on the basis of the custody certificate filed today in Court as well as in view of aforesaid affidavit, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting on the merits of the case, considering the fact that petitioner is in judicial custody since 29.10.2020; he is not involved in any other case and also in view of the affidavit given by the Deputy Superintendent of Police concerned, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

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

Counsel for the petitioner has further submitted that the petitioner is in custody for the last about 06 months and is not involved in any other case and it will take some time in conclusion of the trial. It is further submitted that the petitioner is a young person aged about 18 years and it will not be in his interest to keep him in judicial custody

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along with the hardcore criminals as there is a possibility of improvement in his character.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail on the ground that there are direct allegations against the petitioner.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 06 months; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, 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/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

25.05.2021

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No