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

CRM-M No. 19352 of 2021
Date of Decision: 27.05.2021

Sadik @ Mota

-Petitioner

Vs

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Yashveer Kharb, Advocate,
for the petitioner.

Mr. Deepak Bhardwaj, D.A.G., Haryana.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C. in case bearing FIR No.171 dated 16.05.2019 under Section 395 IPC and under Section 25 of Arms Act (Charges framed under Section 397 IPC and 25-54-59 of Arms Act) registered at Police Station Matlauda, District Panipat on the ground that there is change in circumstance.

Earlier petition i.e. CRM-M No.20011 of 2020 was rejected by this Court vide order dated 10.08.2020. Thereafter,

statements of the complainant Sajjan Singh and eye witness Sunil Kumar have been recorded before the trial Court as PW3 and PW4 on 01.04.2021 and these witnesses have not supported the case of prosecution despite their cross-examinations which did not yield any incriminating material against accused persons.

FIR was registered at the instance of complainant namely Sajjan Singh with the allegations that he used to keep his cattles in a bara. He used to stay in the fields to look after the animals along with his servant namely Sunil Kumar @ Kala. He has constructed separate rooms for their living. On 16.05.2019 at 2.30 AM, six persons came to the fields duly armed with pistol and weapons. One of them pointed out pistol at the complainant and asked for money. They also inquired about number of persons present in the field. They tied the complainant and his servant Sunil Kumar and put them in a room. One boy duly armed with pistol stood as guard. Remaining persons took away the cattles after loading the same in some vehicle. The boy who stood as guard took away two batteries, inverter, two mobile phones and keys of the motorcycle of the complainant. He locked the room from outside. They also took away the motorcycle. With these allegations, the FIR came to be registered.

Petitioner is in custody since 24.05.2019.

Learned counsel for the petitioner submits that co-accused namely Irfan has been granted regular bail by this Court vide order dated 21.05.2021 passed in CRM-M No.18635 of 2021.

Since the material witnesses i.e. the complainant and eye witness have not supported the case of the prosecution and their cross-examinations did not yield any incriminating material against the accused, therefore, the accused is entitled for regular bail.

The factual position of the case is not in dispute, however, learned State counsel on instructions from ASI Pardeep opposed the bail on the ground that motorcycle, inverter, batteries, a knife actuated with automatic mechanism and one country made pistol have been recovered from the petitioner.

At this stage, keeping in view the custody of the petitioner, material witnesses having turned hostile, stage of the trial, grant of bail to co-accused and the situation arising out of pandemic COVID-19, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, the petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing

adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

May 27, 2021

Jyoti Sharma

**(RAJ MOHAN SINGH)
JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No