

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.25103 of 2021
Date of Decision: September 17, 2021

Raman Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Tanvir Singh Grewal, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.615 dated 24.11.2020, under Sections 307, 398, 506, 34, 120-B IPC, 1860 (Section 398 IPC added later on and Sections 392 and 511 IPC deleted subsequently) and Section 25 Arms Act, 1959, registered at Police Station, Gharaunda, District Karnal, who is in custody since his arrest on 27.01.2021.

The contents of the FIR, as noticed by the Additional Sessions Judge, Karnal in his order dated 19.05.2021, are as under:-

“Briefly stated, prosecution case is that this FIR was registered u/ss 398, 307, 506, 120-B/24 IPC and section 25/54/59 of Arms Act, police Station Gharaunda on 24.11.2020 when a telephonic message was received in the police station that some gun shot incident has taken place in Mani Ram Mandi. Police reached the spot where complainant Parmod Kumar moved a complaint alleging that he was owning one jewellery show room in Mandi Mani Ram, Gharaunda with the

name of M/s Om Jewellers. At around 6.15 PM, when he was preparing to go home two men entered inside his shop, threatened the complainant's employee Randhir Singh and directed him to hand over all the articles present in the shop to them. They directed Randhir Singh to fill everything in their bag. With this they also took out a gun and threatened to kill them. Employees of the complainant called him. At that time he was inside the show room of the shop. When he came out, both the offenders pointed the gun at him and directed him to fill their bag with gold, otherwise they will shoot him in his head. Somehow complainant grabbed a danda and tried to hit the assailants but did not succeed. Meanwhile assailants started firing at him. They shot twice at the complainant, but he managed to rescue himself. Complainant again tried to hit them with a danda. Assailants started fleeing from the spot and while leaving they again fired a shot at the complainant which hit their counter. Assailants fled from the spot. While leaving they threatened the complainant with dire consequences. Entire occurrence was recorded in CCTV cameras. He pleaded that a penal action be taken."

Learned counsel for the petitioner contends that as per prosecution, two persons had entered the shop of the complainant to commit robbery, however, the said attempt failed and no one was injured in the firing by the two assailants. He submits that though initially the FIR was registered for offences punishable under Sections 307, 392, 506, 120-B IPC and 25 Arms Act, but subsequently Section 398 IPC was added and Sections 392 and 511 IPC were deleted. Learned counsel has argued that the petitioner was neither one of those persons who had entered the shop nor was present at the place of occurrence, who has been indicted subsequently on the ground that the alleged vehicle and weapon used in the crime belong to him. He submits that the other two co-accused, namely, Sandeep @ Sonu

@ Daljit and Dilniyaz @ Rahul @ Pankaj are in custody and the petitioner has been implicated only on the basis of criminal conspiracy. He has invited the attention of the court to the final report (Annexure P-3) to contend that as per disclosure of petitioner, the weapon and the motorcycle were already with the petitioner, who had given the same to co-accused Sandeep on 24.11.2020 i.e., the date of occurrence. He submits that the said statement before police is inadmissible. According to him, the investigation of the case is complete, therefore, he prays for bail.

On the other hand, learned State counsel, assisted by SI Karambir Singh, has argued that the petitioner is involved in other cases as well and the weapon was recovered from him when he was in custody in other case bearing FIR No.633 dated 05.12.2020, under Sections 170, 171, 419, 397, 398, 120-B IPC and 25 Arms Act, Police Station Gharaunda. He, on instructions, further states that after completion of investigation, the final report has already been filed before the court of competent jurisdiction, however, the trial is yet to commence.

At this stage, learned counsel for the petitioner has argued that the petitioner was granted bail in the other case on 27.04.2021 (Annexure P-2) and the present case of the prosecution against him is comparatively on a weaker piece of evidence as the assailants, who entered the shop are identifiable in the CCTV footage. Learned counsel reiterates his prayer for bail.

After hearing the learned counsel for the parties, considering the above background and custody of the petitioner, this court is of the opinion that though the charges have been framed on 19.08.2021, but no prosecution witness has been examined so far. In all, there are twenty one

prosecution witnesses and the conclusion of trial is likely to consume considerable time, thus, the further detention of the petitioner behind the bars may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 27.01.2021. The material witnesses are either the complainant or the police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Karnal.

September 17, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No