

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-32294 of 2020 (O&M)

Date of Decision: 18.02.2021

Abhishek

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Satya Vir Singh Yadav, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-28971-2020:

The application is allowed, as prayed. Statements of the complainant PW-5 Mukesh Jain and PW-4 Vicky are taken on record as Annexures P-6 and P-7 respectively.

CRM-4293-2021:

The application is allowed, as prayed. Statements of eyewitnesses Khushi Ram and Pawan are taken on record as Annexures P-8 and P-9 respectively.

Criminal Misc. No.M-32294 of 2020:

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.128 dated 16.04.2018 under Sections 392/397/420 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Murthal, District Sonapat.

As per the FIR, on the intervening night of 15/16.04.2018, four-five persons with muffled faces came in a Swift Dzire car and snatched Rs.50,000/- at gun point from the workers of the Petrol Pump namely Khushi Ram and Pawan. They also fired shot towards the workers, though the workers escaped unhurt. The car used in the occurrence has been recovered from the petitioner.

Learned counsel for the petitioner has argued that the petitioner is in custody since 18.05.2018 and the complainant as well as other witnesses have been examined in the case and they have not supported the case of the prosecution. The other co-accused namely Sanjiv, Dalip and Vinit have already been admitted on bail by the trial Court. Learned Additional Sessions Judge, Sonapat has declined bail to the petitioner on the ground that the complainant and other eyewitness are yet to be examined in the case. However, now, since the complainant and other eyewitness have been examined and they have not supported the case of the prosecution, the petitioner deserves to be admitted on bail. The statements of the complainant PW-5 Mukesh Jain and eyewitnesses namely PW-4 Vicky, Khushi Ram and Pawan are on record as Annexures P-6 to P-9 respectively.

Learned State counsel does not dispute the custody of the petitioner and the fact that the other co-accused have already been admitted on bail, but she has submitted that the petitioner is involved in two other cases of similar nature i.e. FIR No.127/2018 under Sections 395/397 IPC and 25 Arms Act, registered at P.S. Murthal and FIR No.191/2018 under Sections 395/397/307/379-B/34 IPC and Section 25 Arms Act registered at P.S. Ganaur and therefore, he is not entitled for bail.

I have heard learned counsel for the parties.

Admittedly, the petitioner is in custody since 18.05.2018. The earlier petition filed by the petitioner for grant of regular bail i.e. CRM-M-39103-2018 was dismissed by this Court on 18.02.2020. The complainant in the case namely Mukesh Jain has been examined along with other eyewitnesses namely Khushi Ram, Pawan and Vicky and they have failed to identify the petitioner-accused shown through video conferencing. Considering the long custody of the petitioner and the fact that the eyewitnesses in the case have not identified the petitioner-accused, this Court deems it appropriate to admit the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, since two more FIRs are registered against the petitioner, it is directed that in order to keep vigil on the activities of the petitioner, he will record his presence at Police Station Murthal once in every two months starting from 01.03.2021. In case the prosecution finds

that the conduct of the petitioner is doubtful, it will be at liberty to seek cancellation of his bail in the present case.

February 18, 2021
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No