

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

(104+215)

CRM-38164-2021 in/and
CRM-M-42198-2021
Date of Decision:-30.11.2021.

Naresh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sanjay Verma, Advocate for the applicant/petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Suresh Kumar Kaushik, Advocate for the complainant.

VIKAS BAHL, J. (Oral)

CRM-38164-2021

Application is allowed as prayed for, subject to all just exceptions.

CRM-M-42198-2021

This is the second petition under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.225 dated 06.07.2021, under Sections 323, 325, 365, 379-B and 34 of IPC and later on Sections 392, 397 and 506 of IPC have been added, registered at Police Station Sector-9 A, District Gurugram.

Learned counsel for the petitioner has submitted that as per the statement of the complainant, which is a part of the challan, (reproduced at

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Page 2 of the paperbook) although it is submitted that the petitioner was present at the spot but there is no specific attribution to the petitioner. It is further submitted that in fact where the allegation has been made with respect to the complainant being brutally thrashed with the help of iron rods and sticks, specific names of Golu @ Arjun, Pawan and Leela had been mentioned and not of the petitioner. It is further argued that the petitioner is not involved in any other case and in the present case, the petitioner has been in custody since 08.07.2021 and the challan has already been filed and there are as many as 16 witnesses, none of whom have been examined and the trial is likely to take time, moreso, in view of the present pandemic. It is submitted that in fact the complainant along with other persons had beaten up the son of the petitioner and that is why, the petitioner has been falsely implicated in this case. It is further stated that offence under Section 379-B of IPC has been deleted. Learned counsel for the petitioner further submits that the present petition is stated to be the second petition but in fact, the present petition is the first petition for grant of regular bail as the first petition i.e., CRM-M-40819-2021 was dismissed as withdrawn with liberty to file a fresh petition with better and complete particulars.

Learned State counsel, on instructions from ASI Sant Kumar, as well as learned counsel for the complainant, on the other hand, have opposed the present petition and have submitted that in the present case, the complainant has suffered three fractures, one on the right leg and two fractures on both arms of the complainant. It is argued that recovery of stick has been made from the present petitioner and in the present case, the petitioner, along with the other persons are also liable for kidnapping the

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complainant by taking him to a forest.

Learned counsel for the complainant has stated that in the present case, supplementary statement of the complainant was recorded in which also, he named the present petitioner and stated that recovery of Rs.14,000/- has been effected from the petitioner.

Learned counsel for the petitioner has submitted that as per the recovery memo, there is no recovery of the said money.

On being asked, learned State counsel has submitted that as per the recovery memo, there is no recovery of the said money.

This Court has heard the learned counsel for the parties and has perused the paperbook.

As per the FIR, no specific attribution has been made to the petitioner. The aspect of the complainant being brutally thrashed with iron rod and sticks, has been attributed to three persons i.e., Golu @ Arjun, Pawan and Leela and not the petitioner as per the statement of the complainant which is a part of the challan (reproduced at Page 2). The offence under Section 379-B has been deleted and the petitioner has been in custody since 08.07.2021 and the challan in the present case has already been presented and there are 16 witnesses, none of whom have been examined and the trial is likely to take time moreso, on account of the present pandemic. The petitioner is not involved in any other case and thus, in view of the above-said facts and circumstances, the present petition for grant of regular bail deserves to be allowed.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the

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satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

It is however, clarified that in case the petitioner exerts any pressure or threatens any of the witnesses, it would be open to the State to file an application for cancellation of bail.

(VIKAS BAHL)
JUDGE

November 30, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No