

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.223 (5)

CRM-M-43267-2021

Date of decision : 02.12.2021

Kapil

..... Petitioner

VERSUS

State of Haryana

. Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Deepak Vashishth, Advocate, for the petitioner.

Mr.Rahul Mohan, DAG, Haryana.

Mr.Ashish Nayak, Advocate, for the complainant.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.231 dated 10.06.2021 registered under Sections 395, 450, 506 IPC and Section 25 of the Arms Act, 1959 at Police Station Sadar Jind, District Jind.

Briefly stated, the case of the prosecution is that Sumer Singh filed a complaint with the police that on 10.06.2021, at around 6:30 pm, when he was in his liquor vend, 3-4 vehicles carrying 15-20 armed persons approached him and told him that they had been sent by co-accused-Parmod @ Kala, who was also sitting in one of the vehicles whom he saw. Thereafter, on the directions of co-accused-Parmod @ Kala, the petitioner and his co-accused lifted from the complainant's liquor vend 12 crates of country-made liquor and Rs.8000/- in cash. The petitioner and his co-accused then left but only after threatening the complainant not to open the liquor vend again or else they would kill him. It was further submitted by the complainant that out of the persons who robbed him, he recognized co-accused Ravinder @ Binder @ Rawan and Parmod @ Kala and could identify them. He also undertook to produce the CCTV footage of the incident. On the basis of such statement the aforesaid FIR was registered.

Seeking regular bail for the petitioner learned counsel submits that the petitioner has been falsely implicated in the present case; investigation in the case

is complete; the only material witness in the case i.e. the complainant/eye witness stands examined before the Trial Court; while appearing before the Trial Court as PW-1 the complainant has specifically deposed that it was not the petitioner who had committed the offences he is accused of; his cross examination by the State also could not reveal anything to connect the petitioner with the alleged crime and that in the light of the afore development there is no reason for further incarceration of the petitioner.

Learned State counsel and learned counsel for the complainant admit to the fact that the complainant has deposed before the Trial Court that it was not the petitioner who had committed the crime he is accused of but learned State counsel still opposes the present petition on the ground that if released on bail the petitioner may indulge in similar offences.

After considering the above submissions and especially the fact that while appearing before the Trial Court the complainant, who is the only alleged eye witness has absolved the petitioner of having committed the crime of which he is accused of, this Court is of the opinion that no purpose would be served in further incarceration of the petitioner.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Jind, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

02.12.2021
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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No

[DEEPAK SIBAL]
JUDGE