

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.208

CRM-M-8966-2022(O&M)
Date of decision: 20.04.2022

ARVIND

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. B.B Chaudhary, Advocate for
for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

Mr. Kamal Chaudhary, Advocate
for the complainant.

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VINOD S. BHARDWAJ, J. (Oral)

This is a petition filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case bearing FIR No.338 dated 26.07.2021, registered at Police Station Sector-5, District Panchkula, under Sections 392, 394, 201, 120-B, 379-B of IPC, 1860 and Sections 25, 54 and 59 of Arms Act, 1959.

Learned counsel for the petitioner *inter alia* argued that as per the version of the complainant in the FIR, three persons came on an activa and caused beating to the complainant. While attempting to snatch his mobile phone and his resistance to the same, one of the boys attacked with a knife held by him, causing injury on the right hand as well as on the chest of the complainant. The second boy is stated to have snatched away the

mobile and also seized Rs.5,000/- from the pocket of the complainant. The third boy kept sitting on the activa.

Learned counsel submits that during the course of investigation, the Police has recovered a motorcycle and not an activa. It is submitted that the mobile phone has been recovered from the other accused and as per the case of the prosecution, the role of the petitioner at best is that he accompanied the other assailants and remained sitting on the vehicle on which all the three boys had come. He thus contends that there is no overt act or attribution to the petitioner in commission of the offence. He also points out that petitioner is in custody since 28.08.2021 and has already undergone an actual custody of about 8 months. He has also made a reference to the affidavit sworn by the complainant and referred to by the Additional Sessions Judge, Panchkula while dealing with the bail petition of the petitioner to the effect that the said complainant has sworn that the petitioner was not the accused person who have committed the offence in question.

Learned counsel appearing on behalf of the complainant reiterates the said submission. He further contends that the complainant has no objection if the said petition be allowed and the petitioner be enlarged on bail.

Learned State counsel however points that there are two other cases registered against the petitioner for similar offences and that he is a habitual offender. He further submits that as the incident in question had taken place at 8:00 PM, it is possible that there was an error of judgment on the part of the complainant in identifying the vehicle. He further submits that recovery of motorcycle as well as Rs.5,000/- has been effected from the

petitioner. It is however, not controverted by him that the petitioner is in custody since 28.08.2021 and that no witness has been examined so far.

Learned counsel for the petitioner submits that in the other two cases that has been registered against the petitioner, he has already been enlarged on bail.

Taking into consideration, the period of custody undergone by the petitioner, as also the fact that the trial has yet not commenced against the petitioner and also the statement made by counsel appearing on behalf of the complainant about the non-involvement of the petitioner, without going into the merits of the case, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

20.04.2022
Amandeep

(Vinod S. Bhardwaj)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No