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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11923-2022

Date of Decision: 07.04.2022

Monu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajesh Nain, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.353 dated 05.11.2020, registered under Section 394 IPC, 1860 and Section 25 of Arms Act, 1959 (Sections 397, 201 and 34 IPC added later on) at Police Station Police Uchana, District Jind.

The prosecution case in brief is that one Hunny Mittal son of Dashrath made a complaint to the Police that on 05.11.2020, he was going from Uchana to Jind on his Scooty bearing No. HR-31K-2246, when four young boys came on the road stopped his Scooty and gave him *danda* blows on his arm by threatening him with a pistol type weapon. He was asked to handover whatever articles he had. The allegations further are that one boy took away his Scooty and fled away, while three of the boys fled away on a motorcycle with the *dandas*. On his raising an alarm, the Scooty

was stopped and the boy who had driven away with it was apprehended and disclosed his name as Monu i.e. the present petitioner.

The learned counsel for the petitioner has argued that Hunny Mittal, the complainant has been examined and has turned hostile. He has not identified any of the accused and other than the said PW1-Hunny Mittal, there is no other witness to the occurrence. He has further submitted that the co-accused of the petitioner namely, Mandeep @ Sonu @ Midha, Parveen @ Babli and Amit @ Mita have been granted the concession of regular bail. The petitioner has been in custody since 05.11.2020 and his further incarceration is not required.

On the other hand, the learned State counsel vehemently opposes the bail application and states that the petitioner was apprehended at the spot and disclosed his name. So far as, the other accused are concerned, they were arrested in another case, suffered their disclosures about their involvement in this case and therefore were granted the concession of regular bail.

I have heard the rival contentions of both the parties.

Admittedly, PW1-Hunny Mittal is the complainant and the only eye-witness to the occurrence. He has since been examined and has not supported the case of the prosecution qua any of the accused and thus, he has been declared hostile. The Hon'ble Supreme Court in **“Dr. Gokarakonda Naga Saibaba Versus State of Maharashtra, 2016(2) RCR (Criminal) 675** and this Court in **“Devender Singh @ Devender Chhabra @ Tintu Versus State of Punjab, CRM-M-27957-2015**

decided on 22.08.2016 has held that grant of bail can be considered, where witnesses stand examined.

Admittedly, the petitioner has been in custody since 05.11.2020. The trial is not likely to be concluded in the near future. As such, the further incarceration of the petitioner is not required.

Thus, without adverting to the merits of the case lest it prejudices either side, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

(JASJIT SINGH BEDI)
JUDGE

07.04.2022
JITESH

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