

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(114+225)

CRM-M-12727-2022(O&M)
Date of Decision: 01.08.2022

Davinder Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. I.S. Mann, Advocate for the petitioner.

Mr. Rakeshinder Singh Sidhu, A.A.G., Punjab.

Mr. A.K. Khunger, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

CRM-26472-2022

This is an application praying for amending the head note as well as prayer clause of the main petition by adding section 379-B IPC (which was added later on).

In view of the averments made in the application, same is allowed. The head note as well as prayer clause of the main petition is amended by adding section 379-B IPC. The accompanying amended head note and prayer clause are taken on record.

Main Petition

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.17 dated 16.2.2022 under sections 452, 395, 380, 354-B, 148, 149, 323, 427, 201 I.P.C registered at Police Station, Bariwala, District Sri Muktsar Sahib.

As per factual matrix, the FIR in question was lodged by complainant Gagandeep Kaur. It was alleged that her marriage was fixed for 19.2.2022 and on account of the same a number of relatives had gathered at their home. At about 6 PM a number of persons duly armed trespassed into their house and thereafter caused damage to the property and looted the gold articles. Her modesty was also outraged. FIR was lodged to take legal action against the culprits.

The investigation commenced and the petitioner was arrested on 28.2.2022. He approached learned Addl. Sessions Judge, Sri Muktsar Sahib for grant of bail, however, after hearing the parties, the same was declined vide order dated 17.3.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case on account of the party fractions in the village. He submits that the occurrence had taken place during the on going assembly elections. He submits that on the basis of a concocted version the present FIR has been lodged to implicate the maximum members of the rival party. It is submitted that petitioner is not even named in the FIR, however, maliciously the supplementary statement of the complainant was recorded on 27.2.2022 i.e. after about 11 days of the registration of the FIR which is self-speaking. Counsel submits that only in order to implicate maximum number of members of the opposite party supplementary statement was recorded and the petitioner was implicated in a deliberated manner. Counsel submits that in the overall facts and circumstances of the case petitioner deserves to be enlarged on bail.

Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner tooth and nail and submits that there are categoric allegations against the petitioner and he cannot wriggle out of the same. Counsel submits that petitioner was duly armed and he attacked the family members of the complainant and all the accused looted gold articles from the house of the complainant. It is submitted that though petitioner was not named in the FIR, however, during recording of the supplementary statement, he was duly named and he played a specific role in committing the offence as alleged.

On the other hand, learned State counsel has submitted that initially 12 accused were named in the FIR and the name of the rest of 12 accused were surfaced during investigation. He submits that though initially the petitioner was not named in the FIR, however, he was nominated by the complainant in her supplementary statement. He submits that besides the present case petitioner is involved in three more cases out of which he has been acquitted in two cases, whereas trial is going on in the third one.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 28.2.2022. The name of the petitioner was not there in the FIR, however, in the supplementary statement of complainant, petitioner was nominated as accused by her. Learned State counsel has submitted that a motorcycle was recovered from the petitioner and the same belongs to him. In the status report filed by the State, petitioner is involved in three other cases out of

which he has been acquitted in two cases and in third one he is on bail. In all there are 24 accused in the present case as submitted by learned State counsel and challan against the accused persons has also been presented. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

01.08.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No