

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

220

**CRM-M-19561-2022
Date of decision: 08.08.2022**

ANKUSH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

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

Present : Mr. Bharat Bhushan, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.338 dated 26.07.2021 registered under Sections 392, 394, 201, 120-B and 379-B of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Sector 5, District Panchkula.

2. In brief, it is the case of prosecution that on 26.07.2021 complainant/injured Mohd. Nafil got his statement recorded before the police, alleging *inter alia* that he is a painter. On 26.07.2021, he had gone to Sector 28, Panchkula for work and in the evening, he was returning home. At about 8:00 PM, when he reached near park of Sector 21, Panchkula, three boys on an Aactiva came from behind and slapped him, they tried to snatch his mobile phone. On his resistance,

one of those boys gave knife blow on his right hand and second blow on his chest; second boy looted his mobile phone make VIVO and Rs.5000/- from his pocket; third boy remained sitting on Activa. Thereafter the said boys fled away from the spot and he prayed to take action against the accused persons.

3. Learned counsel appearing on behalf of the petitioner *inter alia* contends that the FIR was initially registered against 03 unknown persons who are stated to have come on Activa. It is contended that the petitioner is sought to be implicated on the strength of recovery of a knife and Rs. 500 that were purportedly effected on the disclosure of the petitioner. He submits that the case of the prosecution is incongruous inasmuch as the petitioner cannot be linked to the commission of the offence. During the course of the investigation, the police has recovered a motorcycle, even though the assailants are stated to have committed the offence by using one Activa. He further contends that the complainant victim Mohd. Nafil has also sworn an affidavit that the petitioner and his co-accused had not committed any offence. He further submits that the concluded investigation does not show any injury having been caused to the complainant or having been suffered by him. Consequently, the recovery of the knife cannot *ipso facto* link the petitioner to the commission of the offence. He further points out that the petitioner is in custody since 27.08.2021 and has already undergone more than 11 months of actual custody. There are a total of 15 witnesses cited by the prosecution and no witness has been examined so far. He further points out that two other co-accused from whom recovery of Rs. 500/- each have been effected have already been

granted concession of regular bail.

4. Per contra, learned Assistant Advocate General, Haryana contends that the petitioner has criminal antecedents and is involved in one more case of similar nature. He however could not dispute the fact that the similarly placed co-accused had already been granted concession of regular bail and that no evidence has been recorded in the case, despite the petitioner having undergone an actual custody of more than 11 months.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

6. Without examining the merits of the instant case and taking into consideration, the period of actual custody undergone, the young age of the petitioner, the stage of the trial, the concession of bail granted to the co-accused as well as the discrepancies pointed out above, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

7. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. 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.

9. 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.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST, 08, 2022
vishal sharma

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