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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.21458 of 2022 (O&M)

Date of decision: 23.05.2022

Amit

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.208 dated 11.08.2020, for offence punishable under Sections 307, 34, 379-B, 397 of the Indian Penal Code, 1860 (in short 'IPC') and 25/54/59 of the Arms Act, registered at Police Station Bahadurgarh, District Jhajjar.

Counsel for the petitioner has submitted that the new ground for filing this petition is that now the statement of the complainant and the eye-witness has been recorded by the trial Court and they have not identified any of the accused.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of one Sanjay, it is stated that on 11.08.2020, he was going on his motorcycle and stopped on a kiosk of a tea for having a cup of tea and in the meantime, 04

persons came riding the motorcycle and asked him for the key, mobile phone and purse and threatened that if he resist he will be shot. On resistance, one person fired a shot, which hit on his left leg and thereafter, they snatched the car and mobile phone of the victim and ran away. It is further submitted in the statement of PW-1, Sanjay Kumar, the victim after giving the details of the incident, it is stated that he has seen the accused Sachin @ Machhar, Mohit @ Bura, Amit Sehwat (petitioner herein), Khazan Singh, Amit @ Parjapati, Rahul @ Pistol and Pardeep @ Birju through video conferencing but he cannot identified them whether they have snatched the car from him or caused fire-arm injury. Thereafter, the complainant was declared hostile by the Public Prosecutor and in the cross-examination, he even denied having made the statement Ex.PC and Ex.PD to the police. Similar is the statement of the eye-witness PW-2 Sanjay son of Jagannath, the person who was running the tea kiosk. Even this witness on seeing the accused persons, present in the Court, refused to identify them. It is also submitted that now only the official witness need to be examined and there is no possibility for the petitioner to tamper the prosecution evidence. Lastly, it is submitted that the petitioner is in custody for the last 07 months and 19 days.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail on the ground that the petitioner is involved in some more case, though, he is on bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 07

months and 19 days; the custodial interrogation of the petitioner is not required; the material witnesses have been declared hostile and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

23.05.2022
yakub

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