

(108+239) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-28720-2022 in/and
CRM-M-24081-2022
Date of Decision: 10.08.2022

Vishal Dubey

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Nitin Meel, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

JASJIT SINGH BEDI, J.

CRM-28720-2022

The present application has been filed by the learned counsel for the applicant-petitioner for placing on record the copy of the statements recorded before the Trial Court dated 01.08.2022 as Annexure P-4 and copy of order of the learned Additional Sessions Judge, Hisar dated 05.08.2022 as Annexure P-5.

For the reasons mentioned in the application, the same is allowed and the copy of the statements recorded before the Trial Court dated 01.08.2022 and copy of order of the learned Additional Sessions Judge, Hisar dated 05.08.2022 as Annexures P-4 and P-5 are taken on record.

CRM-M-24081-2022

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.141 dated 07.03.2022

(Annexure P-1) registered under Sections 148, 149, 323, 341 and 379-B IPC, 1860 with Police Station Adampur, District Hisar.

2. The present FIR came to be registered at the instance of Sonu son of Tara Chand, who stated that he was running a shop under the name and style of Shiv Mobile Gallery at Kranti Chowk, Mandi Adampur. One Kapil son of Satpal was working at his shop. On 06.03.2022 at about 08.00 PM, while they were going on his motorcycle bearing No.HR20AU-3211 and Kapil was driving the said motorcycle then in the meantime, a motorcycle came from the back side and the person on the motorcycle gave beatings to him and Kapil with iron rods and sticks. Thereafter, the said motorcycle was parked in front of their motorcycle. Three young boys were travelling on the offending motorcycle, one of whom was Manish son of Sahab Ram and the names of the other two young boys was not known to him. However, he could identify them. Manish gave an iron rod blow on the head of Kapil and the remaining accused gave beatings to both of them. A sum of Rs.13,000/- was snatched from him. One Anil son of Partap came and got them admitted in hospital.

3. The learned counsel for the petitioner *inter alia* contends that the petitioner has not been named in the FIR. The petitioner has been named on the basis of disclosure statement of his co-accused, which has little evidentiary value. He submits that during the course of investigation various recoveries have been shown from him, which in fact have been planted on him by the Investigating Agency. He contends that during the course of proceedings, a compromise has been effected between the parties. Even otherwise, the statement of Sonu son of Tara Chand (complainant) has been

recorded as PW-1 and Kapil son of Sat Pal as PW-2. None of these witnesses have supported the case of the prosecution. He contends that the petitioner has been in custody since 12.04.2022 and 02 material witnesses out of 14 witnesses have been examined and have turned hostile. Therefore, the further incarceration of the petitioner is not required.

4. On the other hand, the learned State counsel has filed a status report dated 05.08.2022 on behalf of the respondent-State by way of an affidavit of Abhimanyu Lohan, HPS, Deputy Superintendent of Police, Detective, Hisar. The same is taken on record. He has referred to the fact that a recovery of wooden rod, motorcycle and Rs.1700/- cash has been effected from the petitioner. The recovery of Rs.1550/- and a wooden rod has been effected from Suraj, the co-accused of the petitioner. He however, concedes that the petitioner does not have any criminal antecedents other than the present FIR but states that the nature of the offence itself does not entitle the petitioner to the grant of concession of regular bail.

5. I have heard the learned counsel for both the parties at length.

6. Admittedly, the petitioner has been in custody since 12.04.2022. Investigation stands completed and 02 material witnesses have been examined, who have not supported the case of the prosecution. Suraj, co-accused of the petitioner has been granted the concession of bail by the Court of learned Additional Sessions Judge, Hisar vide order dated 05.08.2022 (Annexure P-4). In this view of the matter, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Vishal Dubey son of Shyam Dubey is

ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

10.08.2022

JITESH

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