

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CRM-M-26586-2022 (O&M)
Date of Decision: 07.07.2022**

SHUBHAM KUMAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present: Mr. Kapil Aggarwal, Advocate
for the petitioner.

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

VINOD S. BHARDWAJ, J. (ORAL)

Instant 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.578 dated 29.09.2021 under Sections 342, 394, 397, 307 read with Section 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959, registered at Police Station Mujessar, District Faridabad and final report/challan has been filed under Sections 342, 395, 397, 307 and 120-B read with Section 34 of the Indian Penal Code, 1860 and Sections 25 and 25 (1)(a) of the Arms Act, 1959.

Brief facts of the FIR in question that was registered at the instance of one Mohit son of Ved Aggarwal resident of Near Rajendra Chowk, Sanjay Colony, Sector 23, Faridabad, is to the effect that on 28.09.2021 at about 10.00 PM, the servant of the complainant was pulling down the shutter of the shop of the complainant. At that point of time, two

young boys with muffled faces pushed the servant inside the shop. They also entered the shop and closed the shutter and pointed a pistol towards the complainant and the persons present there and started giving beatings to them. One of the said two assailants took away Rs.4.5/5 lacs, one gold chain, mobile phone make Apple belonging to the complainant and attempted to flee from there. The complainant then cried for help and upon hearing the same, the father of the complainant came down. He also saw another young boy standing outside the shop on a motorcycle. The father of the complainant tried to nab him, but he fired at the father of the complainant, resulting in a bullet injury on the right shoulder of the father of the complainant. The assailants fired a shot towards another boy who tried to stop them. Thereafter, the assailants fled away from the spot.

Learned counsel for the petitioner has vehemently argued that the name of the petitioner is not figured in the FIR and there is no evidence against the petitioner qua his involvement in the commission of the offence. He further contends that at the time of incident, the petitioner was on duty at M/s Rota Tech Gravure India. He submits that the investigation in the present case is complete and as per the allegations levelled against the petitioner, he conducted the recce of the shop of the complainant and informed the other accused persons about the same, thus, facilitating them to commit dacoity/robbery. It is further contended that no recovery of any nature has been effected from the petitioner. He further submits that the name of the petitioner was disclosed in the confessional statement of co-accused Vipul, who has already been granted the concession of bail vide order dated 27.04.2022 passed in CRM-M-16587 of 2022 titled as 'Vipul Vs. State of

Haryana'. Learned counsel appearing on behalf of the petitioner further submits that the petitioner has already undergone the actual custody of nearly 09 months as he has been in custody since 08.10.2021. It is further argued that the petitioner does not have any criminal antecedents and also the petitioner is not involved in any other similar case.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana submits that it was on the basis of the information furnished by the petitioner that the offence of dacoity/robbery has been committed and the petitioner was in active connivance and conspiracy alongwith the other co-accused persons and the charge has thus been filed against the petitioner also. He, however, could not dispute the fact that no recovery of any nature whatsoever has been effected from the petitioner and that he is already in custody for the last nearly 09 months. Besides, there is no other criminal involvement of the petitioner in any other case.

Taking into consideration the facts and circumstances noticed above, the period of custody already undergone by the petitioner, the absence of recovery from the petitioner as also the fact that co-accused Vipul has already been granted concession of regular bail, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

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.

The observations 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.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

07.07.2022
rajender

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