

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-27704 of 2022
Date of Decision:01.08.2022

Karan Kumar

---Petitioner

versus

State of Haryana

---Respondent

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

Present: Mr. Aditya Sanghi Advocate
for the petitioner

Mr. Kanwar Sanjiv Kumar, AAG, Haryana

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 by the petitioner for seeking concession of regular bail in case bearing FIR No. 515 dated 16.12.2021 under Sections 379-A, 392, 397, 398, 411, 201 and 34 of the Indian Penal Code, 1860 and Section 25/27 of the Arms Act, registered at Police Station Sirsa Sadar, District Sirsa Haryana.

The facts leading to registration of the instant FIR are as under:-

“According to the complaint of the complainant Nirmal Singh son of Balbir Singh, on 16.12.2021 he was going to his village Khera Kalan from Ellenabad on his motorcycle bearing Registration No. PS-51B/9442 and at about 8:00 P.M. When he reached near village Salarpur, four youths suddenly came ahead of his motorcycle. Out of them two were armed with pistols. They committed robbery of motorcycle, mobile phone Marka OPPO, a wallet containing Aadhar card, ATM Card of Axis bank, demo card, ID card and cash amount of Rs. 500/- on gun

point and thereafter they ran away towards village Bhamboor. The complainant stated that he saw the faces of those boys in the light of passers-by vehicles. ”

Learned counsel for the petitioner contends that the petitioner is in custody since 02.01.2022 and that nothing has been recovered from him. Learned counsel submits that the petitioner is being sought to be arraigned as an accused on the strength of the disclosure statement made by co-accused Jaswant Singh and identification of the spot has been done by the petitioner while in custody. It is further submitted that apart from the above, the prosecution places reliance on the Test Identification Parade that was conducted and the complainant is stated to have identified the petitioner amongst the assailants. He submits that such identification parade was not conducted as per law as no senior officer was present at the spot at the time of identification parade. He further contends that despite the alleged test identification parade, the complainant did not attribute any participation to the petitioner and no recovery has been effected at the instance of the petitioner. He also contends that the petitioner does not suffer from any criminal antecedents.

Learned State counsel, however, contends that the petitioner has been identified by the complainant and as such his presence at the spot cannot be disputed. He further submits that the place of incident has been duly demarcated by the petitioner and the same being undisputed, the petitioner cannot plead ignorance or innocence. He, however, does not controvert that no recovery has been effected from the petitioner and that the petitioner does not suffer from any criminal antecedents. It is also not disputed that even though the petitioner has undergone actual custody of

nearly 07 months, yet only one witness has been examined so far.

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

Taking into consideration the circumstances noticed above, no recovery being effected from the petitioner, age of the petitioner and his clean antecedents alongwith stage of trial, 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.

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 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

01.08.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No