

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CRM-M-28040 of 2022
Date of Decision:25.07.2022**

Sunil Kumar @ Sunny

---Petitioner

versus

State of Haryana

---Respondent

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

Present: Ms. Sharmila Sharma, Advocate
for the petitioner

Mr. Himmat Singh, DAG, 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. 69 dated 13.09.2022 under Sections 395, 397, 458 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 (Section 120-B IPC added later on) registered at Police Station Sadar Sirsa.

The facts leading to registration of the instant FIR are to the following effect:-

“That on 13.02.2022, an information was received in the police Station regarding dacoity and inflicting injuries in the Farm House, Dhingtania. On receipt of this information, P/SI Rameet Kumar along with other police officials reached there, where Rohit Gulati submitted a written complaint to the effect that he is looking after the milk plant, owned by Atul Kishore son of Jand Kishore, resident of Delhi and Rakesh son of Dawarka Parshad, resident of Suratgaria Chowk, Sirsa. In the

night, he along with their servant Chander Shekhar son of Rajender Chaudhary, resident of Motihari (Bihar) now village Dhingtania, Sirsa was sleeping in the house situated near the milk plant. At about 1:00/1:15 AM, 5-6 unknown persons entered the house, who were armed with pistol and they started beating him and Chander Shekhar. They tied them and inflicted many injuries to them. He (complainant) has been given blow with the butt of the pistol and they were demanding whichever valuables he was keeping. The assailants also damaged the household articles. On the basis of this complaint, present FIR was registered.”

Learned counsel for the petitioner contends that the petitioner has been wrongly arrested as an accused in the present case. He had never participated in the commission of the offence and even as per the concluded investigation of the case, the other co-accused had approached the petitioner (who is alleged to be a *tantrik*) in order to verify whether money has been stored by the complainant/victim in his godown or not and that the petitioner is stated to have informed the co-accused that there is money in the said godown. She contends that the petitioner had not participated in the commission of offence and that he is not a recipient in the entire process which had resulted in the assailants/accused persons committing dacoity for a sum of Rs. 8000/-. Learned counsel further contends that the petitioner is in judicial custody since 18.02.2022 and that the investigation qua the petitioner is complete. She further contends that no evidence has been recorded so far and that total 17 witnesses have been cited by the prosecution.

Learned State counsel, however, contends that had it not been on account of the information given by the petitioner, the offence in question would not have taken place. He, however, is not in a position to

controvert that the petitioner was not present at the time of occurrence further that petitioner is a *tantrik* and is not involved in any other case. Stage of the trial also remains uncontroverted.

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 and the fact that the petitioner has no criminal antecedents, absence of active participation of the petitioner in the offence of dacoity as well as the actual custody period of the petitioner, 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

25.07.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No