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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.37205 of 2021 (O&M)

Date of decision: 14.01.2022

Mohit @ Palwan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ajay Singh, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 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.181 dated 26.04.2018, for offence punishable under Sections 395/397 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, registered at Police Station Pataudi, District Gurugram.

Counsel for the petitioner, at the very outset, has relied upon the order dated 11.11.2021 passed in CRM-M No.28016 of 2021.

The operative part of the said order, reads as under:-

“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.181 dated 26.04.2018, for offence punishable under Sections 395/397 of the Indian Penal Code (in short 'IPC'), Section 25 of the Arms Act, registered at Police Station Pataudi, District Gurugram.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of PW4 –

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Angad Kihna, it is stated that he was going to Gurugram in his car bearing No.HR-24-K-6776, and when he stopped his car on the Highway, 03 boys alighted from a Scorpio car and at gun point, they entered his vehicle and started driving the same to some other place and by causing injuries to the complainant, they have taken away his vehicle by throwing him out of the car. It is also submitted that the petitioner is in custody for the last 03 years and 02 months.

Counsel for the petitioner has further submitted that the complainant has, now appeared before the trial Court as PW-4 and has not supported the prosecution version with regard to the identification of the petitioner.

A perusal of the statement of PW-4 show that he has stated that he cannot identify the accused person, present in the Court as it was dark night and they were also having muffled faces. The accused shown to him through video conferencing are not the persons, who have snatched away his car.

Thereafter, PW-4 was declared hostile and in his cross-examination, he has denied the suggestion given by the Public Prosecutor that he is intentionally not identifying the accused persons.

Counsel for the State has not disputed the factual position that the complainant has not supported the prosecution version. It is also submitted that the petitioner is involved in some other cases though, he is on bail in those cases.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has further submitted that the petitioner is in custody for the last 03 years, 04 months and 23 days and he is on bail in some other cases as reflected in the Custody Certificate.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 03

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years, 04 months and 23 days; the co-accused of the petitioner is already released on bail; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, 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

14.01.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No