

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37319-2021 (O&M)

DATE OF DECISION: FEBRUARY 15, 2022

ROHIT

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. PANKAJ BALI, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

CRM-1024-2022

Documents (Annexure P-5 to P-8) are taken on record.

CRM is allowed.

Main Case

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.269 dated 4.9.2020, under Section 379-B, 302, 120-B, Police Station Madhuban, Karnal, who is in custody since his arrest on 20.10.2020.

The above FIR was registered on the basis of a written complaint given by complainant Sakib and relevant extract reads as under:-

“Sir, request is that I Sakib son of Jamir caste Pathan Musalman is resident of village Jajupura P.S. Pihani District Hardoi, U.P. That my chacha Najmool son of Safai caste Pathan Musalman resident of village Jajupura District Hardoi, U.P. is doing job of driver on truck No.HR55-M-9405 and I am doing the job of conductor on the truck with my chacha. Yesterday, dated

03.09.2020, I and my chacha Najmool after unloading the truck at Yamunanagar started towards Delhi. Truck was driven by chacha Najmool and I was sitting with him. Now today dated 04.09.2020 when we reached near Government School village Kerwali then at about 2.00 a.m. one car came from backside and by overtaking us stopped suddenly in front of our truck. 5/6 young boys came out from the car by holding knives and dandas in their hands and stopped our truck, who forcibly brought us down and started giving beating to us. Due to fear I ran away but my chacha Najmool was given many injuries by accused persons with their respective weapons. The accused forcibly snatched Rs.35,000/-, one small mobile phone Samsung double SIM with No.7052758536 and 9936054534 from my chacha. At that time one vehicle canter also came from behind, which was also stopped by accused forcibly, and the driver and conductor of canter were given beatings also with dandas and knife and their articles were also snatched. I made the noise and from the village some persons came towards us and on seeing them all these young boys escaped in their car alongwith their weapons with the mobile and money snatched from us towards Kotel, and I can identify them, if they come in front of me. Due to dark the number of car and Make were not visible. The number of canter is UP-19T-7456 and was driven by Jasbir son of Sehandar and Surinder son of Satpal caste Kashyap resident of village Jhijana district Shamli U.P. was the cleaner. Thereafter, villagers took us to Govt. Hospital, Karnal for treatment from there doctor referred my chacha Najmool and conductor of canter Surinder son of Satpal to KCGMC, Karnal after giving first aid where the treatment of my chacha Najmool is

going on. And the conductor of canter has been taken to some other hospital for treatment by driver Jasbir. That I have given you my application and MLR of my chacha Najmool, legal action be taken against the unknown young boys present in car. Thanks. Sd/- Sakib.”

Learned counsel for the petitioner has argued that as per prosecution, four accused persons including the petitioner had stopped the truck driven by Najmul who was accompanied by Sakib (cleaner) and caused injuries upon them, and later on Najmul succumbed to the said injuries. According to the learned counsel, at the same time, another vehicle was stopped by assailants and occupants of the said vehicle, namely, Jasbir and Surender were also given injuries. Learned counsel has pointed out that after registration of the case, the petitioner was arrested, who participated in the Test Identification Parade, but the injured witness did not identify him as one of the assailants. He has further drawn the attention of the Court to the deposition of eye witnesses, namely, Surender (PW-1) and Jasbir (PW-2) who have been declared hostile witnesses. He prays for bail.

On the other hand, learned State counsel assisted by ASI Rishipal while opposing the prayer does not dispute this fact that the material witnesses have been examined and according to him, out of total 25 prosecution witnesses, 18 still remain to be examined. He on instructions further states that the petitioner is involved in other cases of similar nature.

Considering the above background, the length of custody of the petitioner and the fact that material eye witnesses have already been examined, therefore, this Court is of the opinion that further detention of the petitioner may not be necessary for any useful purpose who is presently

confined in judicial custody since 20.10.2020, as conclusion of trial would take considerable time.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

February 15, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes/No