

CRM-M-41931-2021

Date of Decision :06.01.2022

Lokesh Sharma

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Rohit Mittal, Advocate for the petitioner.
Ms. Upasana Dhawan, AAG, Haryana.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.497 dated 20.08.2019, registered under Sections 148, 149, 323, 325, 365, 379-B and 506 of IPC and Section 25 Arms Act, at Police Station City Narnaul, District Mahendergarh.

2. Learned counsel contends that the petitioner is a young man aged 23 years, is in custody since 18.12.2020, challan has been presented on 09.02.2021, charges have been framed and out of twenty one prosecution witnesses, only two prosecution witnesses have been examined, due to prevalence of Covid-19 pandemic, trial is likely to take considerable period of time therefore no useful purpose would be served by keeping the petitioner behind bars especially in view of the fact that main accused as well as other co-accused have already been released on regular bail by this Court vide orders, Annexures P/3 to P/5.

3. Learned State counsel while not disputing the aforementioned position, contends that the petitioner is involved in two

other cases i.e. FIR No.83 dated 02.07.2019, registered under Sections 354-A, 354-D and 506 of IPC, Woman Police Station Narnaul and FIR No. 472 dated 06.08.2019, registered under Sections 148, 149, 285 of IPC and Section 25/54/59 of the Arms Act, Police Station City Narnaul.

4. Learned Counsel for the petitioner contends that the petitioner is on bail in the aforementioned cases and further that the FIR was registered by one Yogesh on the allegations that Lokesh Mohanpur had pointed a pistol at him and made him sit on a motorcycle while he was standing outside 'Samrat Bakery', failing which, he threatened to shoot him whereafter he was taken to a deserted place towards Maharampur side, where two boys caught him and K.D., Lokesh Mohanpur and unidentified boys beat him with a danda and pipe causing fracture of his left hand and also took Rs.3200/- from his pocket besides snatching a silver chain from his neck,whereafter, Lokesh Mohanpur put his pistol into his mouth and threatened to kill him in case he disclosed the incident to anybody. Learned counsel for the petitioner contends that a perusal of the aforementioned details as given in the FIR reveal that although the complainant had mentioned the names of Lokesh Mohanpur, Lokesh Sharma i.e. petitioner, K.D. Karota, who had come to him after getting down from 5/6 motorcycles, on which there were about 13/14 boys, it was only Lokesh Mohanpur who pointed the pistol at the complainant and told him to sit on the motorcycle, failing which, he threatened to shoot him besides after taking him towardsMaharampur side, two boys caught the complainant by his hands, whereafter K.D. and Lokesh Mohanpur and unidentified boys beat him with a danda and pipe.

Learned counsel contends that there is no allegation of the petitioner having inflicted any injury on the complainant or of having snatched his money or silver chain and all the allegations are against Lokesh Mohanpur, K.D. and unidentified boys. Learned counsel contends that co-accused Lokesh Mohanpur, Kuldeep @ K.D. and Sunil have been granted bail by the Coordinate Bench of this Court vide Annexures P/3, to P/5 respectively. Learned counsel further contends that the complainant in his statement before the Court, Annexure P/7, failed to identify the petitioner as one of the persons present at the time of incident or of being a part of the group which assaulted him on 18.08.2019, consequentially has been declared hostile.

5. I have considered the submissions of learned counsel. Admittedly, there is no averment of the petitioner having caused any injury to the complainant. The allegations of causing injuries as well as threatening with pistol, of putting pistol in the mouth of the complainant and snatching money as well as silver chain are attributed to co-accused other than the petitioner, the petitioner is a young man of 23 years, is in custody since 18.12.2020, challan has been presented, charges have been framed and out of 21 prosecution witnesses only two witnesses have been examined and in the circumstances trial is likely to take long time, therefore, no useful purpose would be served by keeping the petitioner behind bars. Besides, although the petitioner is involved in two other cases yet he is on bail in the said cases.

6. In view of the position noted above but without expressing

bail is allowed and the petitioner is ordered to be released on regular bail during the pendency of the trial, subject to his furnishing bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate, concerned, provided he is not required in any other case. The petitioner shall also abide by the conditions contained in Section 437(3) Cr.P.C. It is made clear that in case of violation of any of the conditions contained under Section 437(3) Cr.P.C., prosecution would be at liberty to move an application for cancellation of bail granted to the petitioner in the instant case. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

7. Petition allowed in the aforementioned terms.

06.01.2022

rajesh

(B.S. Walia)
Judge

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