

CRM-M-45689 of 2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-45689 of 2022
Date of decision: 29.11.2022

Narender

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Govind Mor, Advocate, for the petitioner.
Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.52 dated 15.02.2022 under Sections 148, 149, 195-A, 307 and 506 IPC and Sections 25, 54 and 59 of the Arms Act registered at Police Station Bawani Khera, District Bhiwani, Haryana.

The case of the prosecution is that the FIR in question has been registered at the instance of the complainant-Vinay to the effect that on 19.01.2022, Sumit Rathi, Amit (Golu), Krishan (Makha), Kuldeep Gaadri and others had came to his '*Dhaba*', gave beatings and snatched money from him. It is alleged that they also gave beatings to his brothers, namely, Amarjeet, Sachin and Akshay and also snatched money and gold chain from them on gun point and in this regard, a case bearing FIR No.26 dated

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23.01.2022 under Sections 147/149/323/427/506/379-B of IPC and Section 25 of the Arms Act, 1959 was registered against them in Police Station Bhiwani Khera. It is further alleged that Krishan, Sombir Chhilar, Gadrhi, Golu (Amit), Sumit Rathi and others were pressurizing him for compromise in the above stated case, but he and his family members refused. It is further alleged that on 14.02.2022, at around 08:10 PM, he along with his workers and customers, was present at '*Dhaba*' and meanwhile, Sumit Rathi, Krishan (Makha), Kuldeep (Gadrhi), Sombir (Chhilar), Amit (Golu) and one another boy, came there on two motorcycles. Amit (Golu), Krishan (Makha) and Sumit Rathi were armed with pistols, whereas, Kuldeep (Gadrhi), Sombir (Chhilar) and others were armed with '*dandas*'. It is further alleged that Amit (Golu) fired shot with an intention to kill him; he ran inside the '*dhaba*' and in order to save himself locked from inside. It is further alleged that Sumit and others also damaged the motorcycles parked in the '*Dhaba*'. On hearing noise of fire shot, his brothers Amarjeet and Sachin reached along with other customers and workers; on seeing them, the assailants fled away along with their respective weapons, from the spot, however, while leaving, they threatened him and his brothers with dire consequences and, thus, the present FIR has been got registered.

On issuance of notice of motion, the learned State counsel has filed status report dated 17.11.2022 by way of an affidavit of Dr. Hitesh Yadav, Additional Superintendent of Police, Bhiwani, Haryana, on behalf of the respondent-State and the same is taken on record. In the status report, it has been submitted as under:-

“5.That during investigation, accused persons, namely, Narender son of

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Randhir, Anup @ Golu son of Raghbir, Surender @ Akshay son of Ramesh, Amit alias Golu son of Jagjiwan and Ajay @ Fusad son of Jogiram were found confined in District Jail, Bhiwani, in another FIR No.88 dated 20.02.2022, under Sections 279, 336, 186, 353 of IPC and Sections 25/54/59 of Arms Act, Police Station Tosham and as such, their production warrants were got issued from the concerned Court for 23.03.2022. However, before the date of production warrant i.e. 23.03.2022, accused Narender son of Randhir was released on bail in the above case FIR No.88/2022, upon which, he was joined in investigation of present FIR No.52/2022 and after finding cogent evidence against him, he was arrested in accordance with law. Accused/present petitioner Narender suffered his disclosure statement admitting his guilt of commission of offence and further in pursuance of his disclosure statement, accused/present petitioner Narender got demarcated the place of occurrence. However, the motorcycle could not be recovered from present petitioner as the same has been recovered in another FIR No.88 of 2022, P.S. Tosham and has been got transferred in the present FIR.

6.That during investigation, accused Anil son of Satbir was arrested in this case on 18.03.2022 after finding cogent evidence against him in accordance with law. Accused Anil suffered his disclosure statement admitting his guilt of commission of offence and further in pursuance of his disclosure statement, accused Anil got demarcated the place of occurrence.

7.That during investigation on 23.03.2022, accused persons namely 1- Anup @ Golu son of Raghbir, 2- Surender @ Akshay son of Ramesh, 3- Amit alias Golu son of Jagjiwan and 4-Ajay @ Fusad son of Jogiram were joined in investigation and they were arrested in this case after finding cogent evidence against them in accordance with law. They were suffered their respective disclosure statements admitting their guilt of commission of offence. During investigation, the case properties i.e. one pistol, one motorcycle bearing no. HR-16Y-2380 and motorcycle no. HR-16W-0741 were got transferred in the present case. Accused Ajay has already got recovered the sword in another FIR No. 88/2022, which was used by him in the commission of present offence. As per the disclosure statement, the accused Ajay was present at the spot having sword along with other accused persons.

8.That after completion of investigation, the report under Section 173 Cr.P.C. was prepared against accused persons namely Narender, Anoop @ Golu, Anil Jakhar, Surender @ Akshay Mundhalia, Amit @ Golu, Sachin and Ajay @ Fusad and same submitted in the Court on 21.04.2022. There are total 33 prosecution witnesses and all witnesses including complainant are yet to be examined. The charges against the accused persons including present petitioner have been framed on 17.09.2022. Now, the case is pending in the Court of Sh. Ashwani Kumar, Ld. Addl. Sessions Judge, Bhiwani, and is fixed for 02.12.2022 for recording prosecution evidence.”
Learned counsel for the petitioner submits that the petitioner

has not been named in the FIR and he has been nominated on the basis of disclosure statement of the co-accused and was confined in the District Jail, Bhiwani in another FIR No.88 dated 20.02.2022 under Sections

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279/336/186/353 of Indian Penal Code and Sections 25/54/59 of Arms Act, registered at Police Station Tosham and his production warrants were issued on 23.03.2022. It has further been submitted that the challan in the present case has been filed before the trial Court and the next date of hearing is 02.12.2022 for prosecution evidence and there are total 33 witnesses which are to be examined on behalf of the prosecution and the petitioner is in custody since 22.02.2022. Learned counsel further submits that co-accused of the petitioner, namely, Ajay @ Fusad and Anup @ Golu have been granted regular bail by this Court vide common order dated 28.10.2022 passed in CRM-M-41982 of 2022 (Ajay @ Fusad v. State of Haryana) and CRM-M-48244 of 2022 (Anup @ Golu v. State of Haryana). Conclusion of trial may take a long time. Thus, no useful purpose would be served by detaining the petitioner behind bars and considering the case of the petitioner at parity with his aforesaid co-accused, he may be granted concession of regular bail.

Per contra, learned State counsel opposed the petition for grant of regular bail to the petitioner by submitting that the petitioner is involved in another FIR No.88 dated 20.02.2022 under Sections 279, 336, 186, 353 IPC and Sections 25/54/59 of the Arms Act registered at Police Station Tosham. However, learned counsel for the petitioner submits that in the said FIR, petitioner has already been granted bail.

Heard counsel of both the parties and perused the records.

Keeping in view the period of incarceration and since the challan has already been presented against the petitioner, charges have been framed and no PW has been examined so far and co-accused of the

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petitioner have been granted regular bail by this Court and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused-petitioner.

Thus, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

(NAMIT KUMAR)
JUDGE

29.11.2022
R.S.

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No