

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226

CRM-M-6953-2023

Date of Decision: 21.04.2023

Masoom Ali

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Jagmohan Ghumman, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate dated 20.04.2023 filed by learned counsel for the State is taken on record.

The petitioner has filed the instant second petition under Section 439 Cr.P.C., for grant of regular bail in case FIR No. 122 dated 24.05.2022, registered under Section 392 read with Section 34 IPC (Sections 397, 365 and 411 IPC and Section (1-B) (a) of the Arms Act were added and Section 341 IPC was deleted, later on) at Police Station Section 17/18, Gurugram, District Gurugram.

Briefly, the aforesaid FIR was registered on the complaint of Sharad Kumar S/o Ram Avtar, alleging therein that he is employed as a driver in a transport company situated at village Daultabad, Gurugram. On 23.05.2022 at around 9:00 P.M., he loaded shuttering rods in his Tata Canter bearing registration No. HR-55-AL-2575, from the store of Amit Builder situated in Sector 69, Gurugram and left for Sector 150, Noida (Uttar Pradesh). Around 10:30 P.M., when he reached at Iffco Chowk

flyover, a scorpio vehicle of black colour came from behind and stopped in front of his vehicle forcing him to stop. Thereafter, 3-4 boys alighted from the scorpio and one of them opened the door of his canter and took out of key of his vehicle. Then other two boys dragged the complainant out of his canter and forced him to sit on the rear seat of their scorpio in between them. One of the accused took over the charge of his canter. Thereafter, they kept on roaming but could not identify the places. The accused were talking that they will sell the material at SS Trading Company at village Noorpur owned by the petitioner. Accused took out the SIM of his cell phone and threw it. At around 5:00/5:30 A.M, the accused left the complainant near the temple in the hill area and escaped. He came to Sohna Road on foot. Thereafter, he took the cell phone from the security guard and rang up to his owner and narrated the incident to him. His owner also came there after some time. Request for initiating legal action against the accused was made.

Learned counsel for the petitioner, *inter alia* contends that petitioner has falsely been implicated in the instant case. He is a scrap dealer. The only allegation against the petitioner was that the accused were talking that they would sell the stolen property to the petitioner. The complainant appeared in the witness box as PW-3 and was declared hostile as he was not supporting the prosecution case. Even he failed to identify the accused persons who were present in Court. Copy of statement of the complainant dated 16.02.2022 recorded by the trial Court, is annexed as Annexure P-3. Co-accused of the petitioner, namely; Azharuddin, Arjun Kumar, Monu and Deepak @ Gaurav, have already been enlarged on bail by the learned trial Court vide orders dated

02.01.2023 and 22.12.2022 (Annexures P-4 to P-6). Petitioner is in custody since 25.05.2022. He is not involved in any other case. Trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that he may be released on regular bail.

On the other hand, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner. However, learned counsel for the State fairly conceded the fact that petitioner is not involved in any other case.

Keeping in view the facts and circumstances of the case, custody period of the petitioner and also the fact that he is not involved in any other case, but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and petitioner, namely; Masoom Ali, is ordered to be released on regular bail on furnishing of bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

21.04.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No