

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-4806-2023

Date of Decision : April 12, 2023

Ashok Kumar		Petitioner
vs.		
State of Haryana		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Amit Jain, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

Mr. Chinmaya Sejwal, Advocate
for the complainant.

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GURBIR SINGH, J. :

Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No.447 dated 10.11.2022, under Sections 365, 395, 397, 412 IPC, registered at Police Station DLF, Sector 29, District Gurugram.

The FIR in question was registered on the written complaint of Amit @ Maksudan Sahni. As per allegations, on 04/05.11.2022, the complainant and his friend Surender, who was living with him on rent, were having dinner together at Sector 29 CNG Pump, then Ashok (petitioner), Akash, Pardip, Ritesh and one other boy, who was known to the complainant earlier, all came in the car of Ashok and started beating him.

Petitioner Ashok was holding an iron rod in his hand. He gave a blow on the leg of the complainant and thereafter took him in his car towards

Manesar. There they brought liquor from wine shop and forcibly made the complainant to drink the same. They themselves were not taking liquor. Thereafter, petitioner Ashok put his private part in his mouth and got it sucked. All the persons gave beatings to him. Thereafter, they took the keys of his car and returned to CNG Pump, Sector 29 and took his car along with them which was driven by Akash. Then petitioner Ashok called Lucky @ Lokesh and asked him to reach Hotel Blue Stone, Delhi. Said persons brought him to the said hotel. Lucky @ Lokesh took Rs.7500/- from his pocket and remained there. The above-said persons snatched away his car after beating him and broke his mobile.

Learned counsel for the petitioner has submitted that the petitioner has nothing to do with the offence in question. He was arrested on 11.11.2022 and is in custody since then. The complainant and Investigating Officer ASI Anand Kumar were known to one another. ASI Anand Kumar regularly called the petitioner and threatened him to implicate in a false case. He demanded Rs.13 lakhs from the petitioner. When the petitioner refused to give money, he made a false story that he got telephonic information from AIIMS Hospital, Delhi on 10.11.2022. Copy of challan has been placed on the file. Learned counsel has referred to the Call Detail Record to show that Investigating Officer ASI Anand Kumar called the petitioner on 05.11.2022, 06.11.2022, 09.11.2022 and a few calls were made on 10.11.2022 but there is no call from AIIMS Hospital, Delhi to the Investigating Officer. The entire story is fabricated one. Learned counsel for the petitioner has also referred to the MLC of Apex Trauma Center, AIIMS, New Delhi (Annexure P-2), wherein it was written that the patient was brought at 02:00 AM on

05.11.2022 with alleged history of road accident. He was brought by passers-by and was stated to be hit from behind by a four wheeler at Gurugram. It is further argued by learned counsel for the petitioner that the complainant and petitioner were having business of taxis and were well known to each other. On 04.11.2022, complainant himself called the petitioner for a party and also shared his location on Whatsapp. The police intentionally and purposefully ignored the call details of the accused and the complainant, giving rise to strong suspicion. No attempt was made by friend of the complainant namely Surrender to approach the police. There is delay of five days in lodging the FIR. It has further been submitted that the petitioner is sole bread winner of the family. He is a heart patient and need regular medical attention. Therefore, he be granted concession of regular bail.

Learned State counsel and learned counsel for the complainant have opposed the prayer made by learned counsel for the petitioner. They have submitted that the occurrence took place on the intervening night of 04/05.11.2022. The victim was abducted in his car and the said car had crossed the toll plazas in the late hours of 04.11.2022. The complainant suffered serious injuries including fracture of leg. The counsel for the complainant has placed on record photographs of the complainant. In one of the photographs, it is shown that the entire abdomen of the complainant was stitched with multi-stitches. The co-accused Pardip is yet to be arrested. The accused party concocted the story to get the complainant admitted in the hospital by showing that he was brought by the passers-by and he suffered injuries due to road-side accident. Learned counsel for the complainant has

also placed on record copy of the complaint filed against ASI Anand Kumar stating that the Investigating Officer is spoiling the case and helping the accused and he was showing leniency towards the accused. He failed to take record of CCTV footage of the Hotel where the complainant was brutally beaten.

Heard.

The allegations against the petitioner are very serious. The challan has been presented in the case. From the Call Detail Record, it is established that the Investigating Officer ASI Anand Kumar was in touch with the complainant who was admitted in the AIIMS Hospital, New Delhi. Instead of taking any action, he prolonged the matter. He failed to discharge his duties in a lawful manner. At this stage, I have no hesitation to say that by delaying the action, the Investigating Officer indirectly helped the accused. The petitioner-accused has levelled allegations against the Investigating Officer. Instead of obeying the law, the Investigating Officer was trying to obey himself. It is a case of kidnapping. Thereafter, beatings were given brutally to the complainant and then, cleverly the complainant was got admitted in the Apex Trauma Center of AIIMS Hospital, New Delhi.

At this stage, it is too early to comment upon the evidence collected by the Investigating Agency. If the petitioner is released on bail, then there is every possibility that he may try to win over the witnesses or try to overawe them. Trial of the case is at initial stage. Without discussing the merits of the case, I am of the view that it is not a fit case to grant the concession of regular bail, at this stage.

Dismissed.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

April 12, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>