

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-9369-2023 (O&M)

Date of Decision: 21.04.2023

Istiyak ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Sharmila Sharma, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

FIR No.	Dated	Police Station	Section/s
122	24.05.2022	Sector 17-18, District Gurugram	Sections 392/397/365/411/ 34 IPC and Section 25 (1B)(a) of the Arms Act.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of aforementioned FIR.
2. The FIR was lodged at the instance of Sharad Kumar, wherein it is stated that he was employed as a driver in Gurugram Transport Company and that on 23.05.2022 at about 9.00 PM, he loaded shuttering rods in his truck bearing registration No.HR55AL-2575 from the store of Amit, Builder situated in Sector 69, Gurugram and had started for Sector 150, Noida. It is alleged that while on the way, a Scorpio vehicle overtook his truck and forced him to stop. 3-4 boys alighted from the said Scorpio

- vehicle and dragged the complainant out of the truck and forcibly made him sit in the Scorpio vehicle. One of the said persons took charge of the truck. It is further alleged that the said persons dropped the complainant at an isolated place and even the SIM card from his phone had been taken away.
3. Learned counsel for the petitioner submitted that the petitioner is nowhere named in the FIR and came to be nominated on the statement of co-accused Massom Ali, who stated that he had sold a part of the shuttering rods to the petitioner. Learned counsel has further submitted that the said act, at best, would constitute an offence under Section 411 IPC only and since the petitioner has been behind bars for a substantial period of about 11 months, he deserves the concession of bail. Learned counsel has further submitted that the complainant has already been examined during the proceedings of trial, wherein he did not identify the petitioner to be amongst the 4 persons, who had come in the Scorpio vehicle and dragged him out of the truck. Lastly, it has been submitted that since identically situated co-accused have already been granted bail, the petitioner also deserves the similar relief on grounds of parity.
4. Opposing the petition, learned State counsel has submitted that the factum of recovery of stolen shuttering rods, weighing 500 Kgs., from the petitioner clearly shows his complicity and as such, he does not deserve to be released on bail. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 11 months and that he is not involved in any other case. It has also been informed that as on date only 5 out of cited 16 PWs have been examined.

5. This Court has considered rival submissions.
6. Having regard to the facts and circumstances of the case particularly the fact that the allegations against the petitioner are more or less in the nature of recovery of stolen property and while also noticing that the petitioner has been behind bars for a substantial period of about 11 months and otherwise has a clean record, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

21.04.2023

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**