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(221)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22792-2023

Date of Decision: 22.08.2023

VIKAS @ CHETRAM

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ramesh Goyat, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.452 dated 30.12.2021 registered under Sections 392, 397, 379-B IPC read with Section 25 of the Arms Act at Police Station Assaudha, District Jhajjar.

2. The brief facts of the case are that the statement of one Dinesh Kumar was recorded to the effect that he was working in a Private Transport Company at Gurugram and was the owner of a Maruti Swift Car bearing No.HR-77C-8072. On 29.12.2021 at about 09.15 PM while he (complainant) was coming back to his village in the said car and was accompanied by his co-villager Bijender son of Rishal Singh, they saw two boys standing on the side of the road along with a parked car. The boys gave a signal to stop their (complainant party's) car. He stopped his car and the boy on the road snatched his car key and pointed a pistol on his head. The other young man opened the door and sat on the back seat of the car. Then both the boys forced

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him (complainant) to leave the driver seat and sit at the back seat. The boys then took the car towards Village Ismaila where they (accused) dropped them (complainant party) from the car, snatched their mobile phones along with 6-7 thousands. The unknown persons sped away with his (complainant's) car. Legal action was sought.

Based on the aforementioned information, the instant FIR came to be registered.

During the course of investigation, the snatched car bearing No.HR-77C-8072 was found lying in an unclaimed manner and was recovered from Jind.

On 22.04.2022, the presence of the petitioner was secured through production warrants as he was already arrested in FIR No.603 dated 15.11.2021 under Sections 323, 324, 307, 306, 506, 120B IPC and Sections 25/54/59 of Arms Act, Police Station Sampla, District Rohtak in which case he had disclosed about his involvement in the present case.

On 08.06.2022, the petitioner was joined investigation in the present case and stated that the weapon (knife) used by him in the instant FIR had already been recovered in FIR No.603 dated 15.11.2021.

During the course of further investigation, on 07.07.2022, the presence of co-accused Aman was secured through production warrants as he was already arrested in FIR No.603 dated 15.11.2021. He suffered his disclosure statement on which basis raids were conducted at the rented room of his co-accused Fakhruddin @ Kala.

The report under Section 173 Cr.P.C. was presented against the petitioner and his co-accused Aman on 06.09.2022.

On 22.02.2023, the presence of co-accused Shekhar @ Sonu was secured through production warrants as he was already arrested in FIR No.15/2022 under Sections 186, 353 IPC Police Station Special Cell Lodhi Colony Delhi. It was revealed that the pistol used in the crime had already been got recovered by Shekhar alias Sonu in FIR No.15 dated 20.01.2022 under Sections 25/54/59 of Arms Act Police Station Special Cell Delhi. The report under Section 173 Cr.P.C. qua the co-accused Shekhar @ Sonu was submitted before the Court on 15.05.2023.

During the course of further investigation, on 12.06.2023, the presence of co-accused Fakhruddin @ Kala was secured through production warrants as he was already arrested in FIR No.504/2022 under Sections 25/54/59 of Arms Act Police Station City Sonipat.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, nobody has been named in the FIR and just to conclude investigations in the present case, the name of the petitioner has been incorporated. Pursuant to the arrest of the petitioner, no recovery has been effected from him and no identification parade was conducted by the police. As the report under Section 173 Cr.P.C. stood filed and none of the 20 prosecution witnesses had been examined so far, he was entitled to the concession of bail as he was in custody since 08.06.2022.

4. A status report dated 19.08.2023 by way of an affidavit of Gulab Singh, HPS. Deputy Superintendent of Police, Jhajjar, District Jhajjar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner along with his co-

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accused have committed a grave offence. During the course of investigation, it transpired that the petitioner was in custody in another case where he confessed about his involvement in the present case. Keeping in view the gravity of the offence, the petitioner was not entitled to the concession of bail, though he was admittedly in custody since 08.06.2022, none of the 20 prosecution witnesses have been examined so far and in one of the cases registered against him bearing FIR No.69/2021 under Section 323, 325, 307, 341, 483, 506, 34 IPC and Sections 25/54/59 of Arms Act Police Station Dujana, the petitioner has been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner has not been arrayed as an accused in the present FIR. His name came up subsequently during the course of investigation when it was found that the petitioner had been arrested in FIR No.603 dated 15.11.2021. The veracity of the prosecution case against the petitioner shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is in custody since 08.06.2022, none of the 20 prosecution witnesses have been so far. In one of the cases registered against him, he has been granted the concession of bail. In this view of the matter, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Vikas @ Chetram son of Sh. Jagmal is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

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in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

22.08.2023

JITESH

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