

(206) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25855-2023

Date of Decision:26.05.2023

Shubham

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. R.S. Mamli, Advocate for the petitioner.

Mr. G.S. Dhillon, A.A.G. Haryana.

SANDEEP MOUDGIL, J. (Oral)

This petition under Section 439 Cr.P.C has been filed for grant of regular bail to the petitioner in FIR No.0029 dated 13.01.2021 registered under Sections 398, 401 of IPC and Section 25 of Arms Act at Police Station City Tohana, District Fatehabad.

Learned counsel for the petitioner contends that it was on the basis of secret information, some Naka was laid and the petitioner was apprehended with other co-accused on the allegation that they are coming on motorcycle with deadly weapons and are likely to rob the passengers. However, there is no iota of assertion from the perusal of the FIR that they have actually robbed any person or passenger during the intervening period.

On the other hand, learned counsel for the State submits that in fact the petitioner made an attempt to rob the police party itself who are on patrolling duty and had laid Naka.

Looking into the totality of the facts and circumstances of the case, story as put-forth by the prosecution is yet to be proved by way of leading

evidence with its counter evidence by the police as no overt act is alleged to have been made or there was no complaint with the police with regard to specific allegation of commissioning of offence. Another aspect is also to be borne by this Court that out of 15 witnesses in this case, only 3 witnesses have been examined which shows that trial will take long time to conclude and the petitioner cannot be permitted to be kept behind bars for indefinite period in the light of the observation made by the Apex Court in the case of **Dataram Singh v. State of Uttar Pradesh and another**; 2018 (2) R.C.R (Criminal) 131 to the effect that the bail is the rule and jail is an exception.

Considering the totality of facts and circumstances of the case particularly the custody already faced by the petitioner during the pendency of the trial which is likely to take sufficient time to conclude and out of total 15 prosecution witnesses, only 3 witnesses have been examined so far, this petition is allowed and the petitioner is ordered to be released on bail subject to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

(SANDEEP MOUDGIL)
JUDGE

26.05.2023

rajeev

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No