

2023:PHHC:075840
CRM-M-36829 of 2022 [1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-36829 of 2022
Date of decision: 25th May, 2023

Kapil @ Sonu

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P. C. Yadav, Advocate for the petitioner.
Mr. Samarth Sagar, Addl. AG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. This is third petition seeking regular bail in FIR No. 318 dated 17.10.2018, under Sections 323, 34, 341, 365, 506 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Sadar Narnaul, District Mahendergarh.
2. The earlier petitions were dismissed as withdrawn.
3. Learned counsel for the petitioner claims parity with co-accused Sampat who was granted bail by this court on 20.5.2022 in CRM-M-53449 of 2021.
4. On 20.5.2022, the following order was passed:

“This petition under Section 439 of the Code of Criminal Procedure is filed seeking regular bail in FIR No.318 dated 17.10.2018 under Sections 323, 34, 341, 365, 506 IPC and Section 25 of Arms Act, 1959 registered at Police Station Sadar Narnaul, District Mahendergarh.

As per the allegations of the complainant-Jaswant, he

along with Pritam @ Lalu were returning to their village on motorcycle bearing Registration No. HR35K-2502. On the way, their motorcycle was stopped by a Bolero Vehicle. Subhash @ Bachia Gujjar i.e. driver of the Bolero car alighted from vehicle and put a country made pistol on the temple of the complainant. Then Model alias Shooter along with 3-4 other accomplices forcibly put Pritam in the vehicle. Dulari Devi came out of the Bolero car, slapped the complainant and said that to take the aveng of the imprisonment of her son for which Pritam was instrumental, he is being kidnapped.

Learned counsel for the petitioner submits that petitioner was not named in the FIR, no specific role was attributed to him and he is in custody since 4.6.2019 and the co-accused were granted bail by this Court.

Learned State Counsel opposes the prayer for grant of bail and submits that the petitioner was specifically named in a disclosure statement and he is involved in other cases also.

Without commenting on the merits of the case and considering that the petitioner was named in a disclosure statement, no specific role or injury was attributed to him, and co-accused were granted bail by this Court, albeit investigation is complete and conclusion of trial is likely to take time, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any, is rendered infructuous.”

5. Learned counsel for the State though opposes the prayer for grant of bail, he is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.
6. Without commenting on the merits of the case; on the basis of parity of the petitioner vis-a-vis co-accused so far as grant of bail is concerned and that the petitioner is in custody since 3.11.2018 and conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.
7. The petition is allowed.
8. Since the main case has been allowed, pending application(s), if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

25th May, 2023
mk

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No