

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-36419-2022 (O&M)

Date of Decision: 2.5.2023

Rohit

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sanjeev Kadian, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

KARAMJIT SINGH, J. (Oral)

CRM-12706-2023

Allowed as prayed for and documents Annexure P-2 and P-3
are taken on record subject to all just exceptions.

Main case

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.0133 dated 21.10.2020 registered for the offences punishable under Sections 395, 397 IPC, Section 25 of Arms Act (Sections 201, 120-B IPC added later on) at Police Station Machhroli, District Jhajjar.

2. The allegations in nutshell are that on 21.10.2020, 5 persons out of which 4 having muffled faces armed with different weapons entered premises of Punjab National Bank, Machhroli and they snatched the gun of the security guard and also looted ₹ 8,75,331/- and then they fled away from there. The matter was reported to the police by Ved Pal Saroha, the then

Branch Manager of the bank. During investigation, co-accused Aakash was identified from the CCTV footage as he at the time of the occurrence was having un-muffled face. Thereafter, Aakash was arrested and he disclosed the name of the present petitioner and resultantly, the petitioner was arrested on 29.9.2021. As per police, during investigation, one pistol, two live cartridges and cash worth ₹ 9500/- were recovered at the instance of the petitioner.

3. Counsel for the petitioner *inter alia* contends that FIR in this case was registered against five unknown persons, out of which, 4 were having muffled faces; that co-accused Aakash was arrested and on the basis of the alleged disclosure statement made by said Aakash, the present petitioner was named as accused and thereafter, arrested. He further submits that during trial, 3 prosecution witnesses who were employees of the looted bank, are examined but they have not specifically identified the petitioner while appearing in the witness box. He further submits that in the instant case, no test identification parade was got conducted. Counsel for the petitioner submits that in all other criminal cases faced by the petitioner, he is already enlarged on bail. He further contends that it will take considerable time for the trial to conclude and thus, no purpose is going to be served by detaining the petitioner.

4. Present petition is resisted by the State counsel who submits that the petitioner along with 4 other persons looted the concerned bank and they also took away gun belonging to the security guard of the bank. He further submits that during investigation, co-accused Aakash was identified from the footage captured in the CCTV camera installed at the spot and said Aakash made disclosure statement against the other accused persons

including the petitioner and resultantly, the petitioner was arrested on 29.9.2021 and the petitioner got recovered one pistol, two live cartridges and ₹ 9500/-. State counsel on instructions from ASI Vinod has not disputed the fact that 3 employees of the bank are already examined as prosecution witnesses during trial and copies of their testimonies are available on record as Annexure P-2 (collectively). He further apprised the Court that it will take time for the trial to conclude as in total, 32 witnesses are to be examined from the side of the prosecution. State counsel has not disputed the fact that gun stated to be snatched from the security guard was recovered from co-accused/Parwinder and not from the custody of the present petitioner. State counsel has also not disputed the fact that in this case, no test identification parade of the accused persons was ever conducted.

5. I have considered the submissions made by the counsel for the parties.

6. FIR in this case was registered against 5 unknown persons who looted the concerned bank and also took away gun of the security guard of the said bank. The petitioner was later on named as accused on the basis of the disclosure statement made by co-accused/Aakash who was identified on the basis of the CCTV footage. The petitioner was arrested on 29.9.2021 and one pistol, two live cartridges and cash worth ₹ 9500/- are stated to be recovered at the instance of the petitioner. However, the gun stated to be snatched from the security guard is recovered from co-accused/Parwinder only. Trial has commenced and already, 3 witnesses who were employees of the concerned bank are examined. Two of the said witnesses have not stated anything against the petitioner in their testimony. However, the bank manager/complainant has also not stated anything with regard to physical

appearance of the persons who looted the bank except for their height. It will take time for conclusion of trial. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period even if the petitioner is stated to be involved in 5 other criminal cases. .

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

May 2, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No