

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36871-2023
DECIDED ON: 16.10.2023

KAPOOR ALIAS GOLLU
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Baljit Nain, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. AG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.09, dated 07.01.2023, under Sections 307, 387, 34 of IPC, 1860 and Section 25 of Arms Act, 1959 (Sections 201, 120-B of IPC added later on), registered at Police Station City Tohana, District Fatehabad, Haryana.

The contents of the FIR read as under:-

“To The SHO Police station City Tohana. Sir it is requested that I Vikram Vicky S/o Sh. Shamsunder I am resident of Village Chandor Khurd, which I employed as manager in B13 Food Court Tohana. On 07.01.2023 at about 6:50 PM, I am sitting at counter of restaurant at that time one young boy came to me gave a chit and went back. When I towered him then said boy red three round shots from outside which hit on glass of main gate and main gate got broken which I saw that two boys sitting on a bike were present in front of shop. At the same time that boy alongwith these two boys went towards the railway station by sitting on the bike. It was not on the side then fire shots could hit me too which could have killed me when I read said chit words Boxer

Gang Tohana want 50 Lakhs rupees were written. At the time of occurrence Deepak owner of food cart and Jagdeep were also present there. When we checked CCTV footages then the boy who had entered into the shop was identified as Rohit @ Tidda S/o Sash Ram, R/o Patel Nagar Tohana. Strict legal action should be taken by a case against Rohit Tidda and his two other for ransom of Rs 50 Lakhs and ring with the intention of killing them will prepared CD of footage of CCTV cameras installed in B13 food court Sd/- Vikram Vicky S/o Shamsunder R/o village Chandor Khurd Tehsil Tohana District Fatehabad dated 07.01.2023”.

2. Learned counsel for the petitioner vehemently contends that the role attributed to the petitioner even as per the prosecution version is only confined to alleged conspiracy on his part and supply of weapons, which were used in the commissioning of offence by the main accused namely Sumit @ Sukha as well as Rohit @ Tidda and apart from that there is no overt act against him. He further submits that investigation is completed and challan stands presented on 09.03.2023.

3. Further folding his arguments, learned counsel for the petitioner submits that all the other co-accused persons namely Sunil Kumar, Dheeraj and Krishan @ Boxer have already been granted the concession of regular bail vide orders dated 10.03.2023, 01.05.2023 and 26.05.2023 (Annexures P-2 to P-4 respectively) passed in CRM-M-10962-2023, CRM-M-15737-2023 and CRM-M-25882-2023 respectively by this Court.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He asserts that the petitioner was instrumental in hatching the criminal conspiracy that is why Section 120-B has been attracted. He asserts that petitioner is involved in other cases, which shows that he is a habitual offender, therefore, he does not deserve the concession of regular bail at least at this stage.

Though, he could not controvert the fact of grant of bail to the other co-accused

persons.

5. Be that as it may, learned State counsel is not in a position to controvert that investigation is complete, challan stands presented and custody of the petitioner is not required and even otherwise, if the petitioner is kept in custody would not serve any purpose whatsoever, as recovery from the other co-accused persons including the main accused namely Sumit @ Sukha and Rohit @ Tidda has been effected. It is also to be borne in mind that other similar situated co-accused persons have been granted bail by this Court vide various orders, as has been discussed hereinabove.

6. As far as the pendency of other cases is concerned as has been stated by learned State counsel, no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

7. Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, as out of total 36 prosecution witnesses none has been examined.

8. In light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of trial Court/Duty

Magistrate, concerned.

9. The present petition is hereby allowed.
10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

16.10.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No