

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37535-2023
Date of decision: 21.11.2023

Anurag @ AnuPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parveen Kumar Rohilla, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.151 dated 16.02.2022 under Sections 379-A/34 of IPC (45 of 1860) and Section 25 of Arms Act, 1959 registered at Police Station Karnal City, District Karnal (Annexure P-1).

Brief facts of the case are that on 16.02.2022 at about 05:15 A.M., the complainant was going to buy fruits and vegetables from New Vegetable fruit market. When he reached near Dharma Kanta and Peer Baba, passing through the industrial area before Brahmanand Chowk, which goes towards Mandi, suddenly two unknown boys came on a motorcycle and put a knife on the complainant's neck. Thereafter, the unknown boys threatened to hand over whatever the complainant was carrying with him at that time. The assailants snatched his Rs.9,000/-, Aadhar card and his other important documents/papers and disappeared in the darkness. Due to the darkness, the complainant could not see their faces, but according to their body structure and height, the

CRM-M-37535-2023

-2-

assailants appeared to be around 17-18 years, and one of them was addressing other as Shivam to start the motorcycle, while fleeing from the spot and thus, the present FIR was got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case only on the basis of disclosure statement suffered by co-accused-Karan and the prosecution version is highly improbable because according to the own version of the complainant, he was unable to see the assailants due to darkness. The test identification parade conducted by the Investigating Officer is of no consequence. He further submits that the age of the petitioner is 23 years, whereas, in the FIR, the age of the assailant was given to be around 17-18 years and one of the accused was found to be addressing as Shivam. He further relies upon the order dated 04.05.2023 passed by this Court in CRM-M-60738-2022 titled as 'Karan Vs. State of Haryana' vide which co-accused-Karan has already been granted regular bail.

Per contra, the learned State counsel, on instructions from SI Vijay, opposes the grant of regular bail to the petitioner on the ground that he was duly identified by the complainant in the test identification parade and as such, his identity is fully established. He further submits that the petitioner is also involved in two more cases of similar nature, as such, he does not deserve the concession of regular bail.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the records of the case, it transpires that the petitioner is behind the bars since 16.03.2022. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 21.05.2022. Charges were framed on 22.07.2022 and trial of the case has not made much progress as only 02 out of 07 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in '**Prabhakar Tewari Vs. State of U.P. and another**' 2020 (1) R.C.R. (Criminal 831) and '**Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another**', 2012 (2) SCC 382, the involvement of the petitioner in other cases

CRM-M-37535-2023

-4-

would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Anurag @ Anu is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Il-laqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

21.11.2023
Neha

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