

CRM-M-38066-2023

2023:PHHC:115983

-1-

220

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38066-2023

Date of Decision: 04.09.2023

SURENDER

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Neeraj Poswal, Asst. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.338 dated 18.05.2023 (Annexure P-1) registered under Sections 148, 149, 323, 379-B, 427, 506 IPC, 1860 and Section 25 of Arms Act, 1959 (Sections 325, 307 IPC, 1860 added subsequently) (Section 427 of IPC deleted) at Police Station City Palwal, District Palwal.

2. The brief facts of the case are that the statement of Gautam son of Ram Chand was recorded to the effect that on 17.05.2023, he was a part of a Barat of one Rahul going towards Palwal. He was accompanied by his brother Amar Singh, Janak son of Net Ram and Fanni son of Ram Singh. They were all travelling in his (complainant's) Scorpio car. At about 10.00 PM when their Scorpio reached near Village Alhupur, then suddenly, one bullet motorcycle with three young boys and a second Splendor motorcycle with three young boys obstructed the Scorpio. All the boys were armed with

CRM-M-38066-2023

iron rods and Bindas and one boy was armed with a country-made pistol. They all attacked them (complainant party) with their respective weapons in which his brother Amar Singh and Janak received serious injuries. Thereafter, one CNG three wheeler and two Splendor bikes with a number of persons came to the spot and started giving beatings to them (complainant party). He (complainant) and Fanni got admitted Amar Singh and Janak to the Civil Hospital, Palwal for treatment. The accused had snatched a three tola gold chain from the neck of Amar Singh along with Rs.50,000/-. The boys who had inflicted injuries to Janak and Amar Singh were Surender (petitioner) son Prem Singh, Rachhu son of Ved Pal, Sunil son of Karamvir, Bhola son of Mohan, Vipin son of Bharam Dutt, Tek Chand @ Chhotu Fauji, R/o Ferozpur and Sunil R/o Swamika. Legal action was sought.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The occurrence took place on 17.05.2022 but the complaint leading to the registration of the FIR was made on 18.05.2022 at 06.00 PM. This unexplained delay in the registration of the FIR has been used to come up with a coloured version of the occurrence. Even as per allegations, no specific role had been attributed to the petitioner. In fact, the petitioner was merely a by-stander and had informed the complainant about the names of the other persons but has been implicated in the present case. As the petitioner was in custody since 18.05.2023 and the report under Section 173 Cr.P.C. already stood submitted against him, he was entitled to the concession of bail as none of the 14 prosecution witnesses had been examined so far and the petitioner was a first-time offender.

CRM-M-38066-2023

4. A reply dated 0.09.2023 by way of an affidavit of Jasleen Kaur, IPS, Addl. Superintendent of Police, Palwal has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the petitioner along with his co-accused brutally assaulted two of the injured namely, Amar Singh and Janak. The recovery of a Danda had been effected from the petitioner. All the co-accused of the petitioner are still absconding. The nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He, however, concedes that the petitioner is a first-time, in custody since 18.05.2023 and none of the 14 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is a first-time offender. He is stated to be in custody since 18.05.2022 and none of the 14 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. In this situation, his further incarceration is not warranted.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sukhchain Singh @ Gullu son of Resham Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the

CRM-M-38066-2023

State would be at liberty to move an application for cancellation of bail granted vide this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

04.09.2023
JITESH

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