

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 38315 of 2023
Reserved on :07.10.2023
Pronounced on:-20.10.2023

JAI NARAIN

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Shivansh Malik, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

.....

SANJIV BERRY, J.

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-2):-

FIR No.	Dated	Sections	Police Station
128	14.04.2023	148, 149, 323, 341, 379-B, 506 IPC (later on 120-B and 307 IPC added and 379-B IPC deleted)	Julana, District Jind

2. In *nutshell* the case of the prosecution is that on the basis of the statement given by Rinku stating that on 12.04.2023 at about 8:00 pm he along with one Krishan reached near Radha Saomi Aashram near Gatauli on motor-cycle, one Swift car attempted to crash into bike, however, managed to save, 4-5 boys alighted from the car, in the meanwhile one more car came

from Gatauli Adda, attempted to crash into them, the complainant while driving took the motor cycle into the fields. Thereafter 9-10 boys having dandas and bindas in their hand came towards them seeing they ran away. They were chased and caught by Deepak and Ajay and they slapped the complainant and snatched the silver chain, however complainant ran away. But Krishan was badly beaten with dandas and Rs. 1,25,000/- was snatched from him, on raising alarm, the assailants ran away with their weapons, threatening to kill them. The family members of the complainant took them to CHC Julana, thereafter the complainant was discharged after first aid while Krishan was referred to PGIMS, Rohtak and hence the FIR was registered on the statement of Complainant.

3. It is *inter alia* contended by the learned counsel for the petitioner that the petitioner has been falsely implicated and has no concern, whatsoever with the present case. He submits that the petitioner is not even named in the FIR and has been roped in, on the basis of alleged disclosure statement dated 19.05.2023 (Annexure P-5) of co-accused Deepak which is not having any evidentiary value in the eyes of law. He submits that even during his remand, no recovery has been effected from him. He further contends that the police has already presented challan wherein the allegations levelled by the complainant for offence under Section 379-B IPC have been found to be false and have been deleted. He submits that the petitioner is in custody since 24.05.2023, as such he prayed for grant of bail.

4. Learned State counsel on the other hand opposed the bail application and submits that the petitioner is the conspirator in the occurrence and as such he does not deserve concession of bail.

5. After considering the rival contentions and perusing the record, admittedly, the petitioner is not named in the FIR and has been nominated on the basis of disclosure statement of co-accused Deepak dated 19.05.2023 (Annexure P-5). It is also not disputed that after his arrest, the petitioner was taken on remand but no recovery whatsoever has been effected from him. After completion of investigation challan has been presented in the Court and it is evident that the offence under Section 379-B has been deleted, finding the same to be false. No overtact has been attributed to the petitioner regarding the occurrence in which the complainant had sustained injuries and his presence at the spot is nowhere alleged. Since the challan has already been presented in Court and the petitioner is in custody since 24.05.2023, the criminal liability, if any, on the petitioner would only be determined after conclusion of trial, which may take sufficient long time.

6. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

20.10.2023

Gyan

- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No

Yes/No