

**217 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-41526-2022 (O&M)
Date of Decision: 04.12.2023**

Kundan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHUPresent: Mr. Ishnoor Singh, Advocate,
for the petitioner.

Mr. Ashok S. Chaudhry, Addl. AG, Haryana.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of bail pending trial in FIR No. 10 dated 23.01.2019 under Sections 147, 395, 397 & 341 read with Section 149 IPC and Section 141 & 146 of Railway Act, 1989, registered at Police Station, GRP Rohtak, District GRP Ambala Cantt.

2. The FIR was registered on the basis of statement made by complainant Mithu Sharma that on 23.01.2019 at about 3.12 a.m., 8-10 persons entered in Garib Rath Train while it commenced its journey from Rohtak. 4-5 persons had put mask on their face and were armed with country made pistols. The remaining were carrying knives in their hands. They committed dacoity and looted purse, documents, ear-rings, two *kara*, 2 rings, 1 chain, mobile phone, bag, books, two gold chains, ring, diamond mangal sutra, cash amounting to Rs.1,86,000/- from various passengers.

3. Learned counsel for petitioner contended that he is not named in the FIR; rather nominated on the basis of disclosure made by co-accused Karan.

Also contended that no test identification parade was got conducted in this case and as such, identity of the petitioner remains doubtful.

Lastly, contended that petitioner is in custody since 09.06.2019 and challan/report under Section 173 Cr.P.C has already been presented; thus petitioner deserves the concession of bail pending trial.

4. *Per contra*, while opposing the prayer, learned State counsel contended that it is a case of dacoity in running train and petitioner being the member of an unlawful assembly, in prosecution of common object, conducted *reiki* of the area 2-3 days prior to the commission of offence.

Also submitted that apart from the present case, petitioner is involved in three more criminal cases.

5. Heard learned counsel for the parties and perused the paper-book.

6. Alleged incident of train dacoity was brought to the notice of Police Station GRP Rohtak by Mithu Sharma to the effect that on 23.01.2019 at about 3.12 a.m., 8-10 persons armed with country made pistols, knives entered the train and forcibly pulled down its chain. Thereafter, they threatened abovesaid Mithu Sharma with dire consequences and made him to sit down. The accused committed robbery of various items such as purse, documents, earrings, *kara*, rings, gold chains, mobile phone, bag, books, diamond, *mangal sutra* and cash amounting to Rs.1,86,000/- from various passengers.

7. During the course of investigation, co-accused Karan suffered disclosure admitting that on 23.01.2019 he along with co-accused Kundan, Nitin @ Gullar, Jai Narain, Kanhiya, Vishal & Ajay committed robbery in Garib Rath train. Present petitioner Kundan committed *reiki* of the area 2-3 days prior to the commission of offence. In pursuance to the disclosure made by petitioner, cash amounting to Rs.5000/-, one leather bag containing books,

mobile phone, purse, Aadhar card of Anchala Arya, one identify card and one ATM card of SBI bank were recovered.

8. That apart, petitioner is involved in three more FIRs and which are as under:-

Sr. No.	FIR No.	Date	Under Section	Police Station
1.	59	06/05/2029	307 IPC	GRP Saharanpur
2.	42	16/03/2019	395 IPC	GRP Saharanpur
3.	1058	22/12/2018	379-A IPC	Civil Lines, Karnal

9. In view of the above, this Court does not find any ground to grant the concession of bail to petitioner, at this stage.

10. Thus, there is no option except to dismiss the petition.

11. Ordered accordingly.

12. However, learned trial Judge is requested to proceed in the matter expeditiously and progress report be sent to the Registry by 31.03.2024.

13. It is made clear that observations made above be not construed as an expression of opinion on the merit of case in any manner.

14. Pending application(s), if any, shall also stand disposed off.

04.12.2023
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No