

CRM-M 41974 of 2022

2023:PHHC:081887
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 41974 of 2022
Date of Pronouncement: 09.06.2023

Jafar and Anr.Petitioners
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. Munfaid Khan, Advocate for the petitioners.

Mr. Karan Sharma, DAG, Haryana.

GURBIR SINGH, J

The petitioners Jafar and Yusuf have filed the present petition under Section 439 Cr. P.C. for grant of regular bail in case FIR No.7 dated 07.01.2022, under Sections 395, 397, 307, 420, 476, 201, 427 IPC and Section 25/54/59 of Arms Act, registered at Police Station Ferozepur Jhirka, District Nuh.

The State has already filed short reply by way of affidavit of Satish Kumar, HPS, Deputy Superintendent of Police, Ferozepur Jhirka, District Nuh. The detailed facts emanating from the present case are mentioned in para No.2 of the short reply and the same is as under:-

'2.That the detailed facts emanating from the present case are that on 06/07.01.2022, ASI Ravikant alongwith police staff was on patrolling duty for crime detection and crime control and they were present in village Ghata Samsabad. In the meantime, an information was received that one Hywa (SIC) Dumper has been robbed from Bombay Express Highway, thereafter, on the aforesaid information ASI Ravikant alongwith police staff reached at Bombay Highway and contacted to Sh. Rashid, who gave this information to ASI Ravikant and chased the aforesaid dumper. However, the accused have left the aforesaid dumper near village Mahun, which was taken possession and driver and cleaner of the

said dumper was located. The local police also located the bolero vehicle bearing registration No. HR- 28-E-4665, which was rounded up near village Ghata Samshabad and two accused were apprehended during the interrogation they have disclosed their names as Jafar s/o Kappor Alam r/o Gurjar Nangla & Yusuf s/o Hakam @ Hakmuddin r/o Bhadaka, P.S Gopalgarh, District Bharatpur, Rajasthan The complainant Jamshed son of Ilyas r/o Mehrolla, P.S. Rozka Meo made a complaint to the police with the allegations that he is resident of the aforesaid address and doing the work of transportation. He has a dumper bearing registration No. RJ-05-GB-5031, which is in the name of his brother namely Jakir and driver in Jakir Hussain and Almus s/o Jamshed r/o Rajaka, PS Nagina is employed as cleaner. He further alleged that on 06/07.01.2022 at around 10/11.00 PM, Jakir and Almus took this dumper for loading stones and were going to catti ghatti. However, at around 12.00 PM/1. 00 AM near village Pathredi near Bombay Highway (under construction) suddenly a white colour bolero with blue light on the roof of the vehicle came ahead of the dumper and stopped it. In the meantime, his brother Jakir dialed his phone to give information to the complainant upon which the complainant informed to Rashid s/o Gabruddin r/o Thekdi, who is looking after their work of vehicles. The complainant has also informed to the local police also. However, telephone could not be materialized with Jakir and three four persons, who were in the bolero came out and climbed on dumper from conductor and driver sides. One of the accused, who was having country made pistol climbed on the dumper towards driver side and broke the window pane by striking country made pistol on the glass and he entered in the vehicle and overpowered the driver. The conductorJakir was also overpowered by them from conductor side. The aforesaid accused has also robbed the purse of Jakir in which Rs. 12,000/- were kept. The aforesaid accused have also snatched the mobile phones of driver and conductor and lodged them in the bolero vehicle and tied their eyes with a piece of cloth. The local police chased them with the help of GPS fitted in the dumper and rounded up them near Bombay Highway and two accused namely Jafar & Aarif named above were apprehended. The remaining accused fled away from the spot after taking benefit of darkness of the night. However, when Jamshed s/o Illyash and his associates searched his brother Jakir, who was driving the

aforesaid vehicle and conductor Almus, then one bolero vehicle was seen on Bombay Highway, which was having a blue light on the roof of the vehicle and they chased it and with the assistance of police, the aforesaid vehicle bearing No. HR-30-X-1397 was rounded up The accused, who were in the bolero fired on them and their vehicle was badly damaged. The local police apprehended the bolero vehicle and looted dumper with their help and assistance. It was also alleged that his brother Jakir and conductor Almus, who were lodged in the bolero vehicle no. HR-28-E-4665 were got released and they have narrated the story of their woe. The complainant Jamshed also requested for legal action against the accused person upon which present EIR No. 07 dated 07.01.2022 u/s 395/397/307/476/420/427 IPC 25-54-59 Arms Act was registered in police station, Ferozepur, Jhirka and investigation was conducted by the local police.'

Learned counsel for the petitioners submits that petitioners are in custody since 07.01.2022. He has placed on file deposition sheets of material witnesses who have already been examined, namely Jamshed-PW1 (Annexure P2), Jakir-PW2 (Annexure P-3), Almas-PW3 (Annexure P-4) and Rashid PW-5 respectively. They have not supported the version of prosecution and were declared hostile. The learned APP cross-examined them in length and failed to elicit any fact favourable to the prosecution and against the accused. It is a case of no injury. The petitioners are not involved in any other case. Completion of trial will take long time, so, petitioners be released on bail.

On the other hand, the prayer is opposed by learned State counsel. It is submitted that petitioners were arrested by the police after police chased the vehicle, which was used by assailants in committing dacoity of dumper as well as of cash amount of Rs.12,000/- and mobile phones of Jakir and Almas. A country made pistol was recovered from petitioner Yusuf at the time of his arrest. The registration number plate of

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the Bolero vehicle was also found fake and its original number plate was found in the vehicle itself. He has fairly admitted that it is case of no injury and no other criminal case is registered against the petitioners. Petitioners are in custody since 07.01.2022.

Heard.

Case in question was registered on the statement of Jamshed who is examined as PW1. He has not supported the version of the prosecution. As per allegation, 3-4 persons, who were in the Bolero came out and climbed on dumper from conductor and driver sides. The conductor Jakir was also overpowered by them from conductor side. The accused had also robbed the purse of Jakir. Jakir, Almas and Rashid were examined as PW2, PW3 and PW5 respectively. They have also not supported the version of the prosecution. Thus, the persons who were robbed and kidnapped have not supported the version of the prosecution. Petitioners are not involved in any other criminal case. Keeping in view that the petitioners are in custody for the last 01 year and about 05 months and the completion of trial will take long time, so, no useful purpose would be served by detaining the petitioners behind bars any further. The petition, as such, is *allowed*. Petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate, concerned. The petitioner shall also abide by the following conditions:-

- 1. The petitioners shall give their mobile number to the Trial Court and get the same registered, on which SMS shall be received from the CIS and shall not change their mobile number during pendency of the case.*
- 2. The sureties shall also disclose their mobile numbers at the time of furnishing bonds.*

3. *The petitioners shall get the above said mobile numbers with the concerned police station and shall not change their residence without prior intimation to the SHO concerned and the trial Court.*
4. *The petitioners shall appear before the Trial Court on each and every date of hearing.*
5. *The petitioners and sureties shall not close/block their mobile till the disposal of the case.*

The Trial Court is at liberty to impose any other condition that it may deem appropriate. It is further clarified that in case of default of any of the conditions, then the concerned Court is competent to cancel the bail granted to the petitioners.

Nothing stated herein above be construed as a final expression of opinion on the merits of the case and the Trial Court would proceed independently of the observations above, which have only been made for the purpose of adjudication of the present petition for grant of regular bail.

09.06.2023
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(GURBIR SINGH)
JUDGE

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