

2023:PHHC:113392

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41688-2023

DATE OF DECISION: 29.08.2023

ARSHAD @ DATHA

...PETITIONER

VS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ishan Vashisht, Advocate
for the petitioner.

Mr. Sandeep S. Mann, Addl. A. G. Haryana.

SANDEEP MOUDGIL, J. ORAL

1. This is a third petition filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.367 dated 30.08.2019 registered under Sections 307, 379, 392, 411, 420, 506, 511 IPC at Police Station Azad Nagar, District Hisar.

2. In the present case, FIR has been registered by the complainant namely Ashok Kumar, the contents of the same are reproduced here as under:-

*Contents of the FIR To, Chowki Incharge Mangali.
Sir, I request that I Ashok Kumar son of Dharambir Singh, caste Jat, is the resident of village Dubeta. I was sleeping at my house at night. At around 3 o'clock in the night, I heard the sound of buffalo and bell ringing, and when I got up, I saw that near our house 3-4 people were putting our two buffaloes to the canter. When I raised an alarm, the thieves left my stolen buffalo and ran away with their vehicle. Many people in the neighborhood got up and I took my motorcycle no. HR22H3642 Hero*

Honda Deluxe color black behind the canter, to catch buffalo thieves. I followed the canter and reached Mujadpur Road from Village Valawas and near the temple, I drove my motorcycle ahead of the canter and tried to stop the canter, then the person sitting on the conductor's side shouted at me in the moving vehicle and said that he will not agree like this, put canter on him. Then the canter driver tried to run the canter over me with the intention of killing me. In self-defence, I took my bike down on the kacha road and the canter driver tried to run his canter over me to kill me. So the canter overturned because of the rough ground. I got scared and two persons got down from the cantor's cabin and threatened me saying that he will not leave us, shoot him and come near me and forcefully snatched my motorcycle from me. Somehow I saved my life and hid in the millet field and I saved my life by coming to the dhani built nearby. Then I informed my family members by taking the phone of the people of Dhani. My family members came and informed the police. After getting the information, police came to the spot and when we went near the cantor, there was no one. Unidentified person buffalo thief, absconded with my motorcycle.

I have seen two persons who are buffalo thieves. Couldn't see properly in the dark. There can be 3-4 persons also, who were sitting behind the cantor. I request you that strict legal action should be taken against the unknown buffalo thieves and my stolen motorcycle should be recovered. I saw the cantor no., the number of HR55-1633 was on the cantor. Unknown buffalo thieves have tried to canter on me with the intention of killing me. Strict legal action should be taken against unknown buffalo thieves. Applicant Ashok Kumar son of Shri Dharambir Singh Resident Dubeta District Hisar Mo.No.90507-30770 dt. 30.08.19.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case by the complainant only due to his personal grudge with him, whereas the investigating agency could not find out any incriminating material against him. It is also submitted before this Court that in the present case, challan has been presented on 11.11.2019 against Gufran, Dharmender and Shajid and the same was submitted on 16.11.2019

wherein the petitioner was made as an accused vide supplementary challan which was presented against him on 30.10.2022 and is behind the bars since then. It is further submitted that since, than the trial has not made much progress thus, the petitioner is entitled for grant of regular bail as the conclusion of trial is likely to take long time.

4. On the other hand, learned State counsel has filed the custody certificate of the petitioner today in the Court which is taken on record. He has further submitted that the petitioner is a habitual offender and is involved in 24 other cases, the detail of which is apparent from para 15 of the paperbook and the same is reproduced here as under:-

Sr. No.	FIR No.	Section	Police Station
1.	250/2009	395, 412 IPC	Murad Nagar
2.	511/2009	2 & 3 of Gangster Rules	Murad Nagar
3.	391/2009	395, 412 IPC	Sihani Gate Gaziabad
4.	601/208	379, 411 IPC	Sector 39, Chandigarh
5.	468/2009	5 & 8 C.S. Act	Barot, District Bagpat
6.	832/2009	307 IPC	Titavi District Mujafarnagar
7.	763/2009	307 IPC	Titavi District Mujafarnagar
8.	11/2010	307 IPC	Titavi District Mujafarnagar
9.	12/2010	25 Arms Act	Titavi District Mujafarnagar
10.	10/2017	148, 149, 382 IPC	Sadar Sangrur
11.	149/2019	379 IPC	Sadar Ambala
12.	10/2015	363/366, 452 IPC	Titavi District Mujafarnagar
13.	331/2017	307 IPC	Titavi District Mujafarnagar
14.	332/2017	25 Arms Act	Titavi District Mujafarnagar
15.	334/2017	3/25 Arms Act	Titavi District Mujafarnagar
16.	02/2022	380, 411 147, 148, 302 IPC	Nai Mandi Titavi
17.	134/2015	414, 465, 471 IPC	Kotwali Nagar, District Mujafarnagar
18.	295/2022	307 IPC	Nai Mandi Titavi
19.	32/2020	379, 457 IPC	Mansurpur
20.	306/2020	457, 380 IPC	Suhana
21.	346/2020	457, 380 IPC	Suhana
22.	347/2020	457, 380 IPC	Suhana
23.	284/2020	379 IPC	Suhana
24.	772/2019		Sadar Bhiwani

5. Learned State counsel has further argued that as per the custody certificate, the petitioner has undergone almost the actual custody of 10 months and is also shown involved in one another case i.e. FIR No.727 dated 08.10.2021 registered under Section 379 IPC Police Station City Hansi.

6. In the light of the aforesaid circumstances, the allegations levelled against the petitioner are that he alongwith his accomplices had committed theft of buffaloes, robbery of motor cycle and had tried to kill the complainant by running over the Canter on him which are very serious allegations.

7. Keeping in view the abovesaid facts and circumstances, moreso the facts that the petitioner is a habitual offender inasmuch as he is involved in 25 other cases, most of them are identical in nature, thus, he does not deserve any concession of granting relief under Section 439 Cr.P.C. Even the petitioner has undergone actual custody of almost 10 months.

8. In view of what has been observed above, the petitioner is not entitled for grant of bail, accordingly the present petition stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

29.08.2023
yogesh

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No