

201 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-42605-2023

Date of Decision: 02.12.2023

Jagdeep Singh @ Gaggi

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Kartar Singh, Advocate
 for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.317, dated 08.11.2022 registered under Sections 392, 397 read with Section 34 of IPC (Section 392 has been deleted as per order dated 01.06.2023) at Police Station Sadar Ratia, District Fatehabad.

2. The FIR in the present case was registered on the basis of the complaint moved by Anil Kumar. As per him, he was working as a Salesman at a liquor vend for the last two months. On 07.11.2022 at about 8.30 p.m., he was present at the liquor vend and the gate of liquor vend was open. All of a sudden, 3 young persons entered into liquor vend and one of them having a pistol in his hand. One of them, demanded beer after entering inside and the second person pointed pistol. Other two of them, took away several boxes of country made liquor, English liquor, beer and one LED 32 inches make

Samsung and had loaded the same in their white colour Swift car. They also took away his mobile phone containing two SIMs and a sum of Rs.20,000/- after taking out the same from safe box and they went towards Ratia. They also informed that the crime was committed by Bablu and he may inform his contractor and while leaving from there, they closed the door from outside. He could identify if those accused are brought before him and prayed from legal action against him. With these main allegations, the present FIR was got registered by the complainant.

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and no physical description of any of the accused was mentioned in the FIR, which could even remotely connect the petitioner with the commission of crime. Not only that, no test identification parade was held by the Investigating agency in the present case and the petitioner was arrested on 31.01.2023 without any incriminating evidence on record. Learned counsel further submits that in the present case, charge has been ordered to be framed against the petitioner and other accused on 26.10.2023 and the conclusion of the trial may take quite a long time. Learned counsel further contends that the petitioner is the first offender and is in custody for the last about 10 months.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner was involved in a serious crime and had committed the decoity at a liquor vend. He further contends that one LED and Rs.1,000/- have been recovered from the present petitioner.

5. I have heard the learned counsel for the parties and perused the record.

6. The petitioner is in custody for the last about 10 months and even though the charge has been ordered to be framed against the petitioner, still the prosecution has not been able to examine even a single witness till date. Apart from that, the petitioner is not involved in any other criminal activity and he is ready to face the prosecution before the trial Court.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*

- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.
- (vii) The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

02.12.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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