

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

115+214

CRM-M-44900-2023(O&M)
Date of decision: 20.12.2023

Bhupender

... Petitioner

Vs.

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr. Samay Sandhawalia, Advocate and
Mr. Anirudh Shera, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

CRM-53705-2023

Application is allowed as prayed for subject to all just exceptions.

2. Annexures P-6 and P-7 are taken on record.

Main case

3. This is first petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in:-

FIR No.	Dated	Police Station	Section
38	28.01.2023	Murthal, District Sonipat	323, 379-B, 395, 427, 506 of IPC and 25 of Arms Act (397 IPC added later on)

4. Version of the prosecution is that the FIR (Annexure P-1) has been registered on the complaint of Didar Singh stating that he is working as a Manager on the Delhi Panipat Highway toll Plaza. On 28.01.2023 at about 1:15 am when Nishant was on duty, an i-10 silver coloured car without a number plate with five occupants drove in tried to cross their way through the plaza without paying the toll tax. When, Ankit, who was on duty tried to stop them, they threatened him. Ankit took out a pistol, broke the door glass, entered the booth and assaulted Nishant. Two other occupants of the car got down and broke the boom barrier. Nitin tried to stop them but Ankit threatened him with a pistol and stole Rs.2,300/- from his pocket and drove towards Panipat. A few minutes later, the car came back from the other side and again tried to cross the plaza without paying the toll tax. When Purendra tried to stop them, car occupants hurled abuses and assaulted Purendra. The other employees who were on duty namely, Ranjit, Ankit, Vishal, Sumesh and Suchit, came there and they were also assaulted. Ankit waived his pistol and managed to drive away.

5. Counsel for the petitioner submits that the petitioner has not been named in the FIR and he has been arraigned as an accused on the basis of the disclosure statement of Ankit. He submits that there is no allegation of assault or of snatching against the petitioner. By referring to the testimony of the star prosecution witnesses, Nitin PW-1 and Nishant PW-2 which has been appended as Annexure P-6, counsel contends that they have denied the incident altogether and both of them have been declared to be hostile. He submits that petitioner is named as an accused

in another FIR. He was arraigned on the basis of disclosure statement of co-accused and is on bail vide order Annexure P-7. Counsel submits that petitioner, who is in custody since 10.02.2023 deserves to be enlarged on bail as the trial is likely to take time to conclude. Still further, counsel submits that complainant has executed an affidavit Annexure P-2, deposing that the petitioner is not involved in the occurrence.

6. Per contra, learned State counsel, upon instructions from SI Pawan has opposed the petition and submits that the prosecution possesses CCTV footage of the toll plaza and the petitioner is seen as one of the assailants. He has specific instructions to state that no recovery has been effected from the petitioner. As per his instructions, 2 out of 34 prosecution witnesses have been examined and the other employees of the toll plaza are to step into the witness box.

7. Heard learned counsel for the parties and considered their respective submissions.

8. As to whether the petitioner can be held guilty for offence of assault, snatching, dacoity and intimidation would be a matter of debate before the trial Court. Noticing the affidavit, Annexure P-2 executed by the complainant, nature of allegations against the petitioner, testimony of the vital prosecution witnesses and the stage of trial, this Court is *prima facie* of the view that the petitioner deserves to be enlarged on bail.

9. Without adverting to the merits or demerits of the arguments addressed, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

20.12.2023
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No