

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

2023:PHHC:072654
CRM-M-51755-2022
Date of Decision: 18.05.2023

Rajat @ Dhola

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Rajesh Duhan, Advocate for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.90 dated 16.2.2021 under sections 379-B, 34 IPC and sections 25, 54, 59 of Arms Act (after charge sheet section 392 read with section 397 read with section 34 IPC, 201 read with section 34 of IPC and Section 25(1B) of Arms Act were added), registered at Police Station, Samalkha, District Panipat.

As per factual matrix, a complaint was lodged by Shyam Lal son of Natha Ram, wherein it was alleged that he had a Swift Dzire car and he used to run the same as a taxi. On 12.2.2021 at about 14:00 hours four persons came at Safidon Taxi Stand and hired his taxi for Rs.1200/-. All of them boarded his taxi and on the way taxi was stopped and one of them put a country made pistol on his forehead and threatened him to hand over everything he had. They snatched mobile phone and cash of Rs.3000/- from the complainant and also took away his car. A request was made to take legal action against the culprits.

On the basis of the complaint, FIR was registered and investigation commenced. During investigation four accused were named. Petitioner was arrested on 6.3.2021. He approached the court of learned Sessions Judge, Panipat for grant of bail, however, after hearing the parties, the same was declined vide order dated 29.11.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that petitioner was not named in the FIR. He submits that identification of the petitioner was not even established during the course of investigation. It is submitted that false recoveries have been planted on the petitioner only in order to show his complicity in this case. Counsel submits that similarly situated co-accused namely Ajay @ Chhota has already been granted bail by this court vide order dated 21.9.2022 passed in CRM-M-32685-2022. It is submitted that petitioner is behind bars for the last more than 2 years. He submits that investigation in the case is complete, charges have been framed and even material witnesses already stand examined. It is submitted that case of the petitioner is not distinguishable from that of co-accused Ajay @ Chhota and hence in the facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel has vehemently opposed the submissions made by counsel for petitioner. He submits that in all four accused had looted the complainant and later on during investigation they were arrested. He submits that during investigation petitioner was arrested and from him a country made pistol of .315 bore and

cash of Rs.300/- was recovered. Besides this petitioner is involved in 3 more cases, however, he is on bail in those cases. State counsel fairly submits that co-accused Ajay @ Chhota has already been granted bail by this court vide order dated 21.9.2022. He further submits that out of total 14 prosecution witnesses, 4 have already been examined till date.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 6.3.2021. As per case of the prosecution, a country made pistol and cash of Rs.300/- was allegedly recovered from the petitioner. It has been fairly submitted by learned State counsel that case of the co-accused Ajay @ Chhota is not distinguishable from that of the petitioner, who has already been granted bail by this court vide order dated 21.9.2022. Out of the total 14 prosecution witnesses 4 already stands examined. Though, the petitioner is involved in three more cases, however, he has been granted bail in those cases. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on her furnishing bail/surety bonds subject to the

satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

18.05.2023

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