

CRM-M-11087-2024

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-11087-2024 (O&M)

Date of Decision: 06.03.2024

DHARAMBIR SINGH @ GAGANDEEP SINGH @ HADDI

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prince Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 190 dated 08.06.2020 registered under Sections 379-B(2)/34 of Indian Penal Code (Sections 323, 324 and 201 of IPC added later on) at Police Station Maqboolpura, Police Commissionerate Amritsar, Tehsil & District Amritsar.

2. The present FIR was registered on the basis of statement of complainant Sunil Kumar with the allegations that on 08.06.2020, he was going on foot alongwith his fruit cart from his house towards vegetable market for purchasing fruits. On the way, two cropped hair youngmen came on motor-cycle and intercepted his fruit cart with their motor-cycle. They started snatching from him, he resisted, upon which they attacked him with dater. Due to injuries received by him on account of dater blows, he fell down and while he was lying down, both of them took away his purse kept in the pocket of his trouser which was containing Rs. 12/13,000/- in cash alongwith his mobile phone make Nokia 5233 with sim card no.

8195043651. He could not note down the number of their motor-cycle out

of fear but could identify them in case, they would be shown to him.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR and he is behind the bars since 15.11.2021 and the prosecution has failed to examine even a single witness out of 13 prosecution witnesses and the only evidence against the petitioner is his own disclosure statement admitting his guilt. His identity has not been fully established by the Investigating Agency as no Test Identification Parade as required under Section 54-A of Cr.P.C., has been conducted and the similarly situated co-accused Sharanjit Singh @ Sharan has been granted the concession of regular bail by this Court vide order dated 10.12.2021 (Annexure P-4) passed in CRM-M-51004-2021.

4. Per contra, learned State counsel opposed the prayer for grant of regular bail to the petitioner on the ground that his complicity is duly proved in the occurrence as the weapon of offence used in the incident was recovered from the possession of the petitioner and he is involved in three more cases.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is in custody since 02 years 03 months and 20 days as on 05.03.2024 and the trial of the case has not made any progress as none out of total 13 prosecution witnesses has been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in ***Prabhakar Tiwari Vs. State of UP and Anr.*** 2020(1) RCR (Criminal)

831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others*

2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. Accordingly, the present petition is allowed. The petitioner-Dharambir Singh @ Gagandeep Singh @ Haddi is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

06.03.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

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