

CRM-M-9410-2024 (O & M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9410-2024 (O & M)
Date of decision: 27.02.2024

Sahil and anr. Petitioners
V/s
State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rakesh Kumar Lathwal, Advocate,
for the petitioners.

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioners in a case FIR No.376 dated 28.07.2023 under Sections 379-B IPC (Sections 120-B, 201 and 34 IPC added later on) and Section 25 of the Arms Act, 1959 (deleted later on) registered at Police Station Gannaur, District Sonipat.

2. The present FIR came to be registered at the instance of Krishan Kumar and reads as under:-

“To, Post Incharge Sir, Khuburu Canal. I am Krishan Kumar, resident of village Ahulana and I am doing the work of treading of Buffalos. That on dated 27.07.2023 night, time at about 11:00 hrs, I along with my nephew Sahil son of Krishan son of Rajender coming in vehicle No. HR-69D-8284, Mega Excel whose owner is my brother Chand after selling one buffalo and three calves from my village to village Kairana, U.P and moved the vehicle towards the road of double barrel canal and thereafter, moved towards our village. That in the meantime,

three boys came from the behind and obstructed the motorcycle in front of our vehicle. That Sahil was driving the vehicle and he suddenly stopped the vehicle and out of them, one boy had thrown a piece of brick on the front glass of vehicle and they stopped the motorcycle and two boys moved towards me and out of them one boys was having the Bitta in his hand and he gave the Bitta blow on my sides window panes and the glass had broken. They took me outside the vehicle and gave three Bitta blows on my hand. That the 2nd boy was having a pistol in his hands and he pointed the pistol on my stomach and had forcefully taken Rs. 50,000/- kept in the vehicle and told that if I disclosed it to anybody, they will kill me. Thereafter, all the three boys went on the road of Canal on motorcycle. That all three boys were of the age of 20/25 years and light body. It is requested that legal action be taken against the unknown persons and they also took my purse in which R.C of motorcycle No. HR-33C-1969, ATM, Aadhar Card, DL were kept in it. It is requested that my money and documents be returned. Sd/- Krishan, 9991744907 dated 28.07.2023."

3. During the course of the investigation, on the basis of the supplementary statement of the complainant, one Sahil was nominated as an accused. He was arrested and named the present petitioners in his disclosure statement.

4. The learned counsel for the petitioners contends that the complainant Krishan and Chand have been examined before the Trial Court and have turned hostile. The recovery of some cash, one wooden *bitta* and a mobile phone would not inculcate the petitioners. As they were first-time offenders, in custody since 10.08.2023 and only 04 of the 17 prosecution witnesses had been examined so far, the Trial of the present case was not

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likely to be concluded anytime soon and they were entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, contends that during the course of investigation, the role of the petitioners came to light, they were arrested and recoveries were effected from them. Therefore, they were not entitled to the concession of bail. He, however, concedes that the material prosecution witnesses had not supported the case of the prosecution, they were in custody since 10.08.2023 and only 04 of the 17 prosecution witnesses had been examined so far.

6. I have heard the learned counsel for the parties.

7. Admittedly, the main prosecution witnesses have been examined and have turned hostile. Whether the remaining evidence is sufficient to affix liability upon the petitioners shall be adjudicated upon during the course of the Trial. The petitioners are stated to be in custody since 10.08.2027 and only 04 out of the 17 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioners is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioners, namely, Sahil son of Naseem and Ahsan son of Saleem are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

February 27, 2024

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