

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9919-2024

Date of Decision: 29.02.2024

Ansul @ Anshul ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Rakesh Nehra, Senior Advocate, with
Mr. Sauhard Singh and Mr. Vikalp Hooda, Advocates,
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

FIR No.	Dated	Police Station	Section/s
307	11.09.2023	Sector-5, District Panchkula	Section 379-B IPC (later on Section 379-B stands deleted and Sections 395, 397, 120-B IPC and Section 25 of the Arms Act stand added)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of aforementioned FIR.
2. The FIR was lodged at the instance of Shubham, wherein it is alleged that he is a ice-cream vendor and that on the night intervening 10/11.09.2023, when he was returning home, then a Maruti car came from behind and stopped near his vending cart and 3 persons came out of the said car and asked for ‘Kulfi’ (ice-cream). When the complainant was in the process of taking out ‘Kulfi’ (ice-cream), then one of the persons placed his hands

- on complainant's eyes, while the other one snatched an amount of Rs.4600/- and also the mobile phone, which was being carried by the complainant. It is further alleged that the 3rd person inflicted injuries with a 'punch' like weapon on the right thigh of the complainant as a result of which he started bleeding. It is further alleged that there were 4/5 persons inside the car.
3. Learned senior counsel for the petitioner submitted that admitted only 3 persons had alighted from the car and who had some kind of altercation with the complainant. It has further been submitted that during the course of investigation, the identity of all the 3 persons, who had alighted from the car, has been ascertained and who are Sumit, Himanshu and Anmol and that even if the said allegations are accepted to be correct, it goes without saying that the petitioner had never stepped out of the car and under these circumstances, cannot be attributed any *mens rea* or common intention as regards commission of any offence.
 4. Opposing the petition, learned State counsel submitted that since all the accused had gone together in the same car, the complicity of the petitioner is clearly evident. It has further been submitted that the petitioner happens to be involved in 1 more case, which necessarily indicates that the petitioner is a habitual offender. Learned State counsel has also informed that the petitioner as on date has been behind bars since the last about 5 months & 13 days and that charges are yet to be framed and as many as 15 PWs have been cited.
 5. This Court has considered rival submissions.

6. It is not in dispute that the petitioner is not amongst the 3 assailants, who had alighted from the car and had inflicted injuries to the complainant. Under these circumstances, the complicity of the petitioner or intention to inflict injury or to commit the offence in question would be debatable. In any case, the petitioner has been behind bars for a substantial period of 5 months & 13 days and the trial is yet to commence. In these circumstances, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

29.02.2024

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**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**