



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-11678-2024

Date of Decision:-21.05.2024

Rahul @ Deepak.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ashish Rana, Advocate for
Mr. Amit Kumar Goyal, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.385 dated 23.12.2022 under Sections 34, 379-B IPC registered at Police Station HSIIDC Barhi, District Sonipat.

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

“ To SHO Sir, Police Station HSIIDC BARHI Sir, my request is that I Naresh Kumar son of Rajendra caste Prajapat Rio. village Mujona tehsil Samastipur, Police station Samastipur, District Samastipur, Bihar, Hall Ujha Gate Sai Colony Panipat.

I am a driver on HR67C-8447. I have been a driver for about 15-16 years. I started from Panipat to Gurgaon by loading bags of blankets into the canter at around 3:45 PM in the morning. When I reached Barhi at around 4:35 PM, my canter suddenly broke down. I parked my canter on the side. Around 4:45 PM, I was sitting in my canter. At the same time, 3 boys came in a white car and told me that they work on toll and told



me to open the door, when I opened the door of the canter one of them put a knife on me and pull me down in the canter and slapped me and snatched my mobile phone. The second boy showed me a sword and the third boy took out around Rs. 5200 from my pocket and took away the domestic gas cylinder in the canter and went away. My mobile is of MI company. Which has SIM no. 9050971339. They beat me up and snatched the above-mentioned items from me.

Strict legal action should be taken after locating them and my mobile phone, money and cylinder should be searched SD Naresh S/O Rajendra.”

3. During the course of investigation Manish & Rahul @ Deepak (petitioner) were apprehended. The snatched mobile phone was recovered from the petitioner.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. During the course of the Trial, the statement of complainant-Naresh Kumar had been recorded as PW-2 and he had not identified the petitioner and Manish. As the petitioner was a first time offender, in custody since 13.09.2023 and only 02 of the 09 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. The Counsel for the State on the other hand contends that the offence against the petitioner and his co-accused stood established. In fact the recovery of the mobile phone was effected from the petitioner. Therefore, he was not entitled to the concession of bail. He however concedes that the petitioner was a first time offender, in custody since 13.09.2023, that only 02 of 09 prosecution witnesses have been examined so far and that complainant-Naresh Kumar had not supported the prosecution



case.

5. I have heard the learned counsel for the parties.
6. Admittedly, the complainant has not identified the petitioner in the court. Whether the remaining evidence is sufficient to establish the guilt of the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is a first time offender, in custody since 13.09.2023 and only 02 of the 09 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, his further incarceration is not required.
7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-**Rahul @ Deepak** son of Sh. Jaipal is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 21, 2024
Vinay

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