

S. No.222

2024:PHHC:046514

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-15683 of 2024

Date of Decision:05.04.2024

Varun @ Pondy

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Manish Soni, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.196 dated 26.03.2023 registered under Sections 148, 149, 323, 387, 427, 395, 397, 506, 120-B, 201 IPC at Police Station Sector 10, District Gurugram.

2. As per prosecution allegations, complainant Vivek is working as a water supplier in the companies at Gurugram. He had taken the contract to supply the water in Royal Green and MVN Companies and had constructed katcha houses for his office work and residence of the labourers. Four-five days ago, he received a call from a mobile and the caller disclosed his name as Sumit @ Bava claiming to be member of Tota Gang and asked him to stop the work of water supply in Royal Green and MVN Companies, failing which he shall be required to pay ₹5000/- per month and in case of failure to do so he will be killed. It is alleged further that on 25.03.2023, when complainant Vivek went to Rajasthan for some personal work, he was called at about 08:20 p.m. by his Peon Akhtar Hussain that 10-12 persons had come to his office a few minutes ago and caused injuries to him and the Security Guard Samrul Haq by various weapons and that they had snatched their mobile and sim card. The assailants had also caused damage to their

tankers, Alto car, threatened them and asked them to inform the complainant not to supply water to Royal Green and MVN Companies. It was alleged that out of those 10-12 persons some were referring to each other by names of Sumit @ Bava, Varun @ Pondi (present petitioner) and Gopal. After reaching Gurugram, Vivek moved a complaint to the police on 26.03.2023, on which basis FIR was registered. Petitioner was arrested on 14.01.2024.

3. Learned counsel for the petitioner contends that during his testimony, complainant Vivek has not supported the prosecution version and was turned hostile. Copy of that statement is Annexure P.5. Learned counsel also contends that even the other witness, namely, Afsar Hussain has not supported the prosecution case as per Annexure P.6. Besides, co-accused Rahul Saini alias Kale has already been allowed bail by this Court vide order dated 12.02.2024 passed in CRM-M-44957 of 2023.

4. Learned counsel has also placed on record affidavit Annexure P.3 of the complainant so as to contend that the said complainant has specifically stated that he has no objection if petitioner is granted bail.

5. Notice of motion.

6. Mr. Randhir Singh, Addl. AG, Haryana, accepts notice on behalf of the respondent- State. Mr. Suresh Kumar Kaushik, Advocate appears for the complainant, filed his Vakalat-Nama and submits that he has no objection in granting bail to the petitioner.

7. Learned State Counsel could not refute the contention to the effect that the complainant and the other witnesses have not supported the prosecution case during trial. However, learned State Counsel has placed on record

custody certificate in order to draw attention towards the criminal antecedents of the petitioner.

8. As per the custody certificate, petitioner is in custody for the last 02 months and 20 days.
9. No doubt, that the petitioner has other criminal cases pending against him but in most of them he is on bail . The Court cannot ignore the fact that complainant of the case and other witnesses have not supported the prosecution case during trial.
10. Having regard to all the afore-said facts and circumstances of the case, but without commenting anything further on the merits of the case, the present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate, on usual terms and conditions.

April 05, 2024

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Whether Speaking/reasoned

Whether Reportable

(DEEPAK GUPTA)

JUDGE

Yes/No

Yes/No