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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18811-2024 (O & M)
Date of decision: 24.04.2024

Rahul Kumar Petitioner

V/s

State of Punjab and anr. Respondents

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.S. Sandhu, Advocate, for the petitioner.
Mr. Harkanwar Jeet Singh, AAG, Punjab.
Mr. Vaibhav Narang, Advocate, for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.21 dated 29.01.2024 under Sections 379-B(2)/411 and 34 IPC (Section 411 IPC added later on) registered at Police Station Salem Tabri, Ludhiana.

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

"Statement of Sudhir Mandal son of Ram Vilas Mandal Resident of Village Chauta District Madhuvani, Police Station Benipatti Bihar presently Resident and tenant of Rakes Jain, House No. 16/16, Bagh Khajanchi Namak Wali Mandi Ludhiana aged about 36 years Mobile 78888-19142, has stated that I have been living at the said address for about 7/8 years and do my

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embroidery work on Kali Sadak. On dated 29.01.2024, at time around 12.30 AM at night me and my friend Rakesh Kumar in my Activa Jupiter TVS Colour Gray which I bought about two or three days ago whose number is yet to come with the other rider is Lali Dhaba in front of Metro Gurnam Nagar went to eat food at Ludhiana, when both of us were going towards Malhotra Palace after having dinner. When we were a little behind at Malhotra Palace, a motorcycle splendor with two young men came behind us and then obstructed us from in front of my Activa. The motorcycle stopped us and the motorcycle driver and the young man sitting behind got off the motorcycle and came towards us and the motorcycle driver took out a knife and put it on my neck and showing fear of death pushed his hand in my pocket and took about 20 thousand rupees Indian currency notes and my mobile phone Real Me colour blue and my Activa was taken away and another young man grabbed my friend Rakesh Kumar by the neck and forcefully took the mobile phone Vivo colour blue from his pocket and the motorcycle splendor and my Activa ran away from the spot. I couldn't read the number of the motorcycle due to panic. My friend and I went to our houses in fear. Now me and my friend Rakesh Kumar came to yourself. We were coming to the police station to inform you, but you have met us. Proper action should be taken against these unknown persons Sd/ Sudhir Mandal”.

3. During the course of investigation, the petitioner and his co-accused came to be arrested.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, the complainant and the accused were friends and the allegations levelled were on account of a misunderstanding. The recoveries had been planted upon the petitioner and his co-accused. As he was in custody since 29.01.2024,

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none of the 13 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, moreso, when the matter had been compromised as was evident from the compromise/affidavit (Annexure P-3) and a co-accused, namely, Arjun Kumar had been granted bail vide order dated 19.04.2024 passed in CRM-M-18150-2024.

5. The learned counsel for the State, on the other hand, contends that during the course of investigation, the petitioner was arrested and got recovered mobile phones and an Aactiva scooter used in the commission of the offence. Therefore, it was apparent that the offence had been established beyond any reasonable doubt. He, however, concedes that the petitioner was in custody since 29.01.2024, none of the 13 prosecution witnesses had been examined so far and a co-accused had been granted the concession of bail.

6. The learned counsel for the complainant contends that as a compromised had been arrived at between the parties, he had no objection if the petitioner was granted the concession of bail.

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

8. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 29.01.2024 but none of the 13 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 petitioner is not required, moreso, as a compromise has been arrived at between the parties and a co-accused has been granted bail.

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9. Thus without commenting on the merits of the case, the present

petition is allowed and the petitioner-Rahul Kumar is ordered to be released

on bail subject to his furnishing bail bonds and surety bonds to the

satisfaction of learned CJM/Duty Magistrate, concerned.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 24, 2024
sukhpreet

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