



CRM-M-20895-2024

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(219)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20895-2024

Date of Decision: 30.07.2024

KULDEEP UPADHYAY @ LAMBU

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Tanvir Singh Attariwala, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.280 dated 27.04.2023 registered under Sections 342, 380, 457 IPC (Sections 380 and 457 IPC deleted and Sections 395, 397, 120-B, 201 IPC added later on) at Police Station Sadar Thanesar, District Kurukshetra.

2. The present FIR was lodged on the complaint made by Mahesh on the allegations that in the night of 26.04.2023 at around 12 O'clock, 5-6 persons along with rods entered their site Sitaram Cold Storage near village Mathana. One of his watchman Om Pal was given beatings, slapped two three times and tied with rope on bed lying in the room with a cloth. Thereafter, they made a telephone call to some other person and asked him to bring the vehicle and told other people to cut off the lights. The complainant submitted that he can identify the persons, if produced before him.

Thereafter, from the site about 6 tons of iron rods, Gas Cylinder, Watchman's

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bag containing about Rs.5,000/-, mobile of Watchmen bearing No.89501-00845 and one bundle of wires were loaded in the Saffron vehicle and all these things were taken away by accused persons. It was further alleged that when his labour came to the site at around 8.30 A.M., then they found that the watchman was tied with rope and they opened it after seeing him. The watchman told the whole story on his telephone.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR but has been involved in the present case only on the basis of his disclosure statement. Five co-accused of the petitioner have been granted the concession of bail by this Court or by the Trial Court. As the petitioner was in custody since 06.05.2023 but none of the 24 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.

4. A reply dated 26.07.2024 by way of an affidavit of Om Parkash, HPS, Deputy Superintendent of Police City, Kurukshetra has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that during the course of investigation, the name of the petitioner figured as an accused. The nature of the allegations levelled against him did not entitle him to the grant of bail. He, however, concedes that the petitioner was in custody since 06.05.2023 but none of the 24 of the prosecution witnesses had been examined so far and that five co-accused had been granted the concession of bail.

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

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6. 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 06.05.2023 but none of the 24 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.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Kuldeep Upadhyay @ Lambu son of late Ramsiromani Upadhyay 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.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. The petitioner (or anyone 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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

30.07.2024

JITESH

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