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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-3138-2024 in/and
CRM-M-27286-2023
Date of decision: 24.01.2024

Rohit @ ChhotaPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lekh Raj Nandal, Advocate
for the applicant/petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

CRM-3138-2024

The present application has been filed under Section 482 Cr.P.C.
for placing on record the zimini orders (Annexures P-9 to P-14) in FIR No.207
dated 08.07.2021 under Sections 34/379-B/395/397 of IPC (Section 392 of IPC
was deleted later on while filing the challan) registered at Police Station
PGIMS, Rohtak, District Rohtak.

Learned counsel for the applicant/petitioner submits that the zimini
orders are necessary for the proper adjudication of the present case.

In view of the averments made in the application, the same is
allowed and zimini orders (Annexures P-9 to P-14) are taken on record.

CRM-M-27286-2023

This second petition has been filed under Section 439 Cr.P.C.
seeking regular bail in case bearing FIR No.207 dated 08.07.2021 under

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Sections 34/379-B/395/397 of IPC (Section 392 of IPC was deleted later on while filing the challan) registered at Police Station PGIMS, Rohtak, District Rohtak. First petition for regular bail was dismissed on merits vide order dated 02.09.2022 (Annexure P-8) passed by this Court.

The present FIR was lodged on the statement of complainant-Vijay Kumar on the allegation that on 07.07.2021 at 11:30 P.M. when he was coming from his village towards Rohtak for getting medicine in his Maruti Wagon-R bearing registration No. HR12AL-6698 and reached near the circuit house, one vehicle coming from the wrong side stopped near his car. The assailant travelling the car, first asked about the direction of some address, thereafter, one of them gave injury from the back side with sharp edged weapon on the shoulder of the complainant and another injury was inflicted on his ear and after removing the complainant from his car, all three boys snatched his car and fled away.

Learned counsel for the petitioner *inter alia* contends that petitioner is in custody since 08.07.2021 and after dismissal of his first application of bail by this Court on 02.09.2022, the trial has not made any progress. To substantiate his argument, he has relied upon the zimini orders passed by the learned trial Court i.e. Annexures P-9 to P-14. He further submits that the other co-accused have been granted the concession of regular bail. Moreover, the petitioner is not named in the FIR and he has been involved in the present case only on the basis of disclosure statement suffered by the co-accused while in police custody which has no evidentiary value in the eyes of law.

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Per contra, the learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner is the main accused and the Wagon-R of the complainant was recovered from the possession of the petitioner. He further submits that petitioner is a habitual offender and involved in three more cases, as such, is not entitled to bail.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 08.07.2021. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not

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made much progress as only 04 out of 21 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘Prabhakar Tewari Vs. State of U.P. and another’ 2020 (1) R.C.R. (Criminal 831) and ‘Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Rohit @ Chhota is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

24.01.2024
Neha

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