



CRM-M-32118-2024

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

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CRM-M-32118-2024

Date of decision: 16th October, 2024

Mohd. Ismnail

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Arun Sharma, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner seeking regular bail in case bearing FIR No. 270 dated 03.10.2023 registered under Sections 147, 149, 323, 364-A, 386, 387, 427 and 506 of IPC, 1860 and Section 25 of Arms Act, 1959 at Police Station Bhondsi, District Gurugram.

2. Adumbrated facts as emanating from the record are that the aforementioned FIR was registered on the basis of complaint submitted by the complainant Isthak Khan on 03.10.2023 alleging therein that he owned four hydra cranes and three tractors which were plied by him for different companies. On 30.09.2023, he received a Whatsapp call on his mobile phone. The caller while introducing himself as Amit, resident of village Alipur told the complainant to give a sum of Rs. 1,50,000/- to him and otherwise threatened to kill him or his family members. The complainant



told him that he did not have money to part with, then the caller threatened him by saying that they had killed one Ashok Rathi and the complainant would be finished in same manner. On 01.10.2023, Rashid, a co-villager of complainant had taken his Scorpio car for some work. On 02.10.2023, the complainant received a whatsapp call and the caller while introducing him as Salim Hariyakheda told the complainant that his scorpio car was in their possession and would be given back only after receipt of a sum of Rs. 16,00,000/-. He also told the complainant to meet him near Dhunela underpass. The complainant went there in the afternoon. Sometime, thereafter, some persons came in his car towards him and one of them, snatched a sum of Rs. 8,000/- from his pocket and told him to give more money and otherwise to face consequences and then fled. The complainant made a call on the mobile phone of Sahid who informed him that he had been abducted by the accused Amit, Bobby and Salim on the previous evening and they were raising demand of Rs. 16,00,000/- to release him and had been extending threat to kill him by pointing pistol. It was further alleged by the counsel that the complainant had given information at the police control room about the entire incident. He along with ASI Narender from Police Station Bhondsi had gone to village Hariyakheda, where his car was found lying parked in the house of Ismnail. Shahid who had taken the car from the complainant was made to sit there while the co-accused Rohit Dagar @ Bobby, Amit, Salim, Javed and Jaibir were also present there. On seeing the complainant, they started hurling abuses to him. Some other persons also joined and then all of them extended beatings to him. With the



help of police Shahid was got released from the custody of the petitioner and other persons and the car was also taken into custody. He prayed for taking action against the culprits. After registration of FIR, investigation proceedings have been initiated. The petitioner was arrested on 13.10.2023. Investigation has since been completed and the petitioner along with co-accused is facing trial for commission of aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 13.10.2023. Three prosecution witnesses namely Sahid, Khurshid Ahmed @ Kurrai and Sohab Khan have been examined and neither of them has implicated the petitioner in commission of subject offences. The complainant is intentionally avoiding his appearance as a witness before the trial Court. Trial is likely to take time. No useful purpose would be served by detaining him in custody anymore. Therefore, it is urged that he deserves to be extended benefit of bail.

4. Status report has been filed by respondent State. It is submitted therein and it is argued by learned State counsel that during the course of investigation call details record of the mobile phone of the complainant and the phones from where calls had been received by the complainant on the fateful day, had been obtained and it transpired that the mobile phone of the petitioner had been used at the time of occurrence. It was also revealed that Shahid Khan was in communication with the petitioner. The complainant is yet to be examined. There are serious and specific allegations against the petitioner as he along with the co-accused Salim had forcibly kept the



vehicle of the complainant after kidnapping Sahid and had made extortion calls to the complainant. There are chances of petitioner's committing similar offences, if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

5. Learned counsel for the complainant has argued that complainant is still apprehending threat to his life and liberty at the hands of petitioner and has moved a petition before this Court in this regard. He has been provided security, however, has not been able to record his statement before the concerned Court. There are chances of petitioner's intimidating the complainant, if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. Learned counsel for the petitioner has placed on record copies of statements of witnesses Sahid, Khurshid Ahmed @ Kurrai and Sohab Khan. Neither of these witnesses has supported the prosecution version. All of them have been declared hostile and have not implicated the present petitioner in the subject crime. The petitioner is in custody since 13.10.2023. No doubt, the complainant has not been examined so far. However, it has been revealed that in a separate petition bearing No. CRWP-732 of 2024, specific directions have been given for his appearance before the Court in police protection and it is submitted by learned State counsel that the complainant has not chosen to appear before the Court till date despite



police protection already being granted to him. There is no basis for the contention that the petitioner may intimidate the complainant or commit similar offences. Keeping in view the period of incarceration of the petitioner, the fact that some material witnesses have not supported the prosecution case and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th October, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |