

CRM-M-38239-2023

2024:PHHC:024188

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

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CRM-M-38239-2023

Date of decision : 21.02.2024

Vijay Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rahul Singla, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.15 dated 14.01.2022, registered for the offences punishable under Sections 387 and 34 of IPC at Police Station Ambala City, District Ambala.

2. As per the contents of the FIR, it was alleged as under:-

“To The Chownki Incharge No. 3 Ambala City, Respected Sir, it is requested that I Gulshan Kumar son of Sh. Darshan Lal resident of house no. 4078/2 Katrwada Ambala City. We are two brothers, my younger is Chander Bhushan, who reside after 5 to 6 house from my house, at about 11:25 in night dated 13.01.2022 I received a call on my mobile no. 9416024122 from unknown mobile no. 8221815881 and said that Pardhan Ji Challa speaking, I need money, I said who are speaking, he replied that you are Gulshan speaking, after saying yes by me he said I am Cholla from H gang Mafia,

coming to your home, when I said I did not recognize you, he said I fired shots at Darjia Chownk and Manav Chownk and I am from Bhupi Rana gang, after some time he along with his companion reached outside the house of my brother Chander Bhushan and my brother door was closed, who said from inside that Gulshan was not at home, has gone out, they called me by presuming house of my brother Chander Bhushan as my house, my brother saw from net door two boys were standing outside, those boys said come outside, my brother refused to open the door, at that time my brother told me all this, cholla went away by saying abusive, Cholla real name is Manish Handa, who is resident of Kaziwada, Cholla has threaten to kill me on phone and demanded money which is illegal, legal action be taken against them.”

3. As per the prosecution, the active participation of the petitioner is evident from the fact that co-accused Manish Handa @ Cholla threatened the complainant through mobile phone which is in the name of the present petitioner and the same was also recovered on the disclosure suffered by the petitioner only.

4. Counsel for the petitioner submits that the petitioner is behind bars for more than 02 years, 01 month and 03 days. Not only the challan stands presented, the trial has also proceeded considerably. 06 out of 12 cited witnesses already stands examined and thus there cannot be any apprehension that the petitioner shall tamper with the evidence.

5. *Per contra*, State counsel however refers to the criminal antecedents of the petitioner to submit that in view of his past history

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and the active participation in the present case, the petitioner does not deserve grant of bail. He further submits that petitioner has already earned conviction in FIR No.496 dated 13.11.2017 for offences punishable under Sections 323, 354-A, 354-D, 364, 511, 452 and 506 of IPC and in FIR No.39 dated 27.01.2017 for offences punishable under Sections 323, 452, 354-A and 506 of IPC.

6. Faced with the situation, counsel for the petitioner submits that those matters relate to altercation between the petitioner and his neighbours and further relies upon ***Prabhakar Tiwari vs. State of U.P.' reported as (2020) 1 RCR (Cri.) 831*** to submit that the allegations against the petitioner in other cases cannot be relied upon to deny bail to the petitioner in the present case.

7. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner, the stage of trial and the fact that the custody of the petitioner cannot be prolonged as a punitive measure, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

21.02.2024

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No