



288

Date of Decision: 11.09.2024

....Petitioner

STATE OF HARYANA

....Respondent

CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking concession of regular bail in case arising out of FIR No.215 dated 23.08.2018 under Sections 392 IPC and Section 25 of the Arms Act, 1959 (Sections 397 and 201 IPC added later on) at Police Station Narwana Sadar, District Jind, Haryana. As on 23.08.2018, the complainant-Rupender posted as Manager in Kavita Filling Station, Village Hatho, District Jind was present in the office of filling station and was working therein. A salesman Virender was present outside and was busy in filling fuel/gas when some youths came there riding on two motorcycles. One of them was armed with weapons, they alighted from the motorcycle and by snatching the cash amount of Rs.60,000/- kept in the pocket of one salesman Jora while showing weapons to him, they fled from the spot. While alleging that he could identify those youths, he prayed for taking action in the matter.

2. After registration of the FIR, investigation proceedings were initiated. Accused Sehdev, Sunil @ Sonu and Anil @ Monti were arrested



subsequently. They suffered disclosure statements on 12.07.2021 admitting their involvement in the said crime and also took the name of the co-accused namely Balinder alias Sonu, who was also arrested and recorded his disclosure statement on 14.08.2021 taking the name of the present petitioner as one of the youths who was involved in the incident. The petitioner was in custody in some other case. His presence was secured through production warrants on 16.04.2022. He was joined into the investigation of this case. He also suffered disclosure statement admitting his involvement in the case. After completion of investigation, challan was presented in the Court and presently the petitioner is facing trial along with co-accused for the commission of the aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of the co-accused which cannot be considered to be admissible in evidence. The complainant and other material witnesses have since been examined and neither of them has connected the accused with the subject crime nor they have identified him. He was not named in the FIR. No Test Identification Parade of the petitioner was got conducted. No incriminating evidence has come against him on record. He is in custody since 16.04.2022. The trial is likely to take time. His further detention would not serve any useful purpose. The co-accused Balinder alias Sonu has since been extended benefit of bail Therefore, it is urged the petition deserves to be allowed.

4. Status report has been filed by respondent-State as per which the incident had captured in the CCTV footage of the camera installed in the Fuel



Filling Station and the said CCTV footage clearly showed that the petitioner was one of persons who were involved in the occurrence. The allegation against the petitioner are serious in nature. He has criminal antecedents as apart from case in hand, he is involved in seven more cases of serious nature. There are chances of his absconding, if extended benefit of bail to him. Therefore, it is urged that the petition does not deserve to be allowed.

5. Heard.

6. The petitioner along with co-accused is alleged to have committed offence of robbery/dacoity at Kavita Filing Station wherein complainant was posted as a Manager, by robbing the salesman of the filling station for a sum of Rs.60,000/-. The respondent-State has placed on record a compact disc containing CCTV footage of the incident. The youths who are shown to be committing the offence of robbery/dacoity in this CCTV footage are, however, shown to be having muffled faces and cannot be identified as such. The complainant and other material eye witnesses have since been examined. Copies of their statements have been placed on record as Annexures P-2 to P-7, respectively. Neither the complainant nor the victim or the other eye witnesses identified the petitioner as robbers/dacoits. All these witnesses are shown to have been declared hostile and did not support the prosecution case that the petitioner was amongst the robbers. The petitioner is in custody since 16.04.2022. The trial is likely to take time.

7. Keeping in view the nature of evidence which has come on record in the form of statements of material witnesses, coupled with the fact that the CCTV footage does not establish the identity of either of them as that of the



petitioner and the period spent in custody by the petitioner and in view of the attending facts and circumstances of the case but without commenting on the merits thereof, the petition is allowed and the petitioner is allowed 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.

11.09.2024
Deepak Patwal

(MANISHA BATRA)
JUDGE

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