



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CRM-M-39962-2024

Date of decision: 23.08.2024

Mohit @ Sittu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kashish Sahni, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.423 dated 02.09.2023 under Sections 323, 364, 506, 34 of the IPC and Section 25 of the Arms Act, 1959 registered at Police Station City Bhiwani, Bhiwani.

2. Learned counsel for the petitioner submits that the petitioner's false implication in the present case is evident from the fact that while stepping into the witness box as PW9, the complainant, who was allegedly abducted by the petitioner had not supported the case of the prosecution as a result of which he was declared hostile. In support, learned counsel has drawn the attention of this Court to Annexure P-5 which is a copy of the deposition of the complainant/victim and wherein it indeed stands reflected that the complainant had not levelled any allegations against the petitioner and had resultantly been declared



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hostile. Learned counsel has submitted that in the aforementioned facts and circumstances, when the sole material witness already stands examined, further incarceration of the petitioner, who has now been in custody since 02.10.2023, would serve no useful purpose moreso when 10 witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute the factum of the complainant/victim being declared hostile during trial, however, learned State counsel has drawn the attention of this Court to the allegations levelled in the FIR which stands reproduced hereinunder:-

"To the SHO, Police Station City Bhiwani, it is requested that I am Sohan, son of Sh. Madan Singh is a resident of Jitu wala Johad, near Vikas High School, Bhiwani. Today, i.e 01.09.2023 at about 8 pm I was sitting at the shop- "Sh. Shyam Ticket Ghar" situated at Railway Station, Bhiwani. The manager of the shop- Sandeep son of Jagdish resident of Jitu wala Johad and Ajay son of Pardeep, resident of Durga Colony and Vijay son of Dhaniram, resident of Durga colony were sitting outside the shop and talking. At about 9pm, one car-Mark Swift (white colour) stopped in front of us and Rajan son of Balbir resident of Sewa nagar, Bhiwani and Virpal resident of Brijwasi Colony, Bhiwani alighted from the car. Rajan was having talwar in his hand and was exhorting that today we will kill you. On seeing Rajan and Virpal coming towards me, I ran towards the gate of the railway station, however after some distance, I fell down. I was caught by them and bundled into the car. After sitting in the car, Rajan told Mohit @ Sittu to drive fast and asked him to go from Chang Meham route. Rajan told another boy-Monu @ Jonga to hold me tightly so that I don't escape. They stopped the car on Meham Road towards the field and alighted from the car and Rajan, Virpal, etc. gave me slap, fist and danda blows due to which I got injuries on both my hands and feet. Rajan then told to take me to Sirsa so as to kill me and throw me there. I was again made to sit in the car and I was sitting by the window seat and we came back towards Meham Gate. Then due to vehicles



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coming in front of the car, the car stopped and taking advantage of the same, I ran away by jumping from the window of the car. All the accused threatened me that today I am saved but we will kill you in future. Rajan, Virpal, Mohit @ Sittu and Monu @ Joga kidnapped me with the intention to kill me and Rajan also showed me the pistol in the car. Some cases are going on with them due to old enmity. Legal action be taken against them all. Sd. Sohan son of Madan Singh resident of Jitu wala Johad, near Vikas High School, Bhiwani. Dated 01.09.2023. Mobile no. 7988584252. This application has been written by me at the instance of Sohan. Sd. Shripal son of Mahender Singh. Mobile no. 93050333042.”

4. It has been submitted by the learned State counsel that in the FIR the complainant had categorically levelled allegations against all the accused including the petitioner and had also alleged that it was the petitioner who drove away the vehicle in which the complainant was allegedly abducted.

5. I have heard learned counsel for the parties and perused the relevant material on record including the deposition of the complainant/victim.

6. Further incarceration of the petitioner would serve no useful purpose in the aforementioned facts and circumstances as the trial would take considerable time to conclude. The sole material witness has already been examined. This Court, therefore, deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.



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8. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

23.08.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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