

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48296-2023

Reserved on: 11.01.2024

Pronounced on: 18.01.2024

2024: PHHC: 006208

Mahender alias Mahendar

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Kartik, Advocate, for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.94 dated 08.02.2019 registered under Sections 395, 397 & 120B IPC and Section 25 of the Arms Act, 1959 at Police Station Sadar Palwal, District Palwal.

2.1 As per prosecution allegations, on 08.02.2019, Bhanu Pratap son of Munna Lal, and Ramesh Kumar son of Ramavtar, both residents of Rajaka Rampur, District Etah (UP), were going in their Scorpio Car No.UP 82 V 9321. Their Scorpio got punctured in Bamnikhera. They got the punctured fixed from complainant-Nihal and moved further, when a car occupied by 4-5 persons, halted near the Scorpio. The occupants of the said car started beating the occupants of the Scorpio i.e., Bhanu Pratap and Ramesh Kumar and with an intention to kill them, fired upon both of them with country-made pistol. As the complainant started approaching towards the spot, the assailants also showed pistol to him.

Assailants also fired 3-4 times upon the occupants of the Scorpio. After snatching the Scorpio, mobiles and cash, they fled away towards Palwal. The injured were taken to the hospital. Police reached there on getting information. The MLRs revealed one firearm injury each to both the injured Bhanu Pratap and Ramesh Kumar. On the complaint of Nihal, who had fixed the puncture of the vehicle of injured, FIR was lodged.

2.2 Further prosecution case is that on the same date i.e., 08.02.2019, Hariom @ Monty and Rishiraj @ Shanky were arrested in case FIR No.97 dated 08.02.2019, under Section 307 IPC, registered at Police Station Sadar, Palwal. On interrogation, they suffered disclosure statement and admitted their involvement in the occurrence of the present case. The looted Scorpio No.UP 82V 9321 was recovered from them. Besides, one country-made pistol and three live cartridges were recovered from Hariom @ Monty; whereas one pistol and 4 rounds were recovered from accused Rishiraj @ Shanky. They further disclosed about their accomplices Mahender @ Mahendar (*present petitioner*), Sachin, Sandeep @ Daga, Saurav @ Langda, Harender @ Harro, Tekchand and Neeraj. Accused Hariom @ Monty as well as Rishiraj @ Shanky were got identified by the complainant on 11.02.2019

2.3 After completion of investigation, challan qua both of them was filed. Later on, Mahender @ Mahendar (*present petitioner*) and Sandeep @ Daga were produced on production warrant from jail on 02.07.2019, as they were confined in connection with some other case. They were joined in the present case and their disclosure statements were recorded. Both of them demarcated the place of occurrence. Supplementary challan qua both of them were filed.

3.1 It is submitted by ld. counsel that petitioner has been falsely implicated; that he has been nominated only on the basis of disclosure statement of co-accused; that no injury to him has been attributed; that there is no allegation that complainant identified the petitioner at any stage. Ld. counsel further contends that main accused Hariom @ Monty and Rishiraj @ Shanky have already been allowed bail by Coordinate Bench of this Court vide order dated 09.09.2021 (Annexure P3) in CRM-M-28923-2020 and CRM-M-24044-2021 and that case of the petitioner is on much better footing. Not only this, another co-accused Sandeep @ Daga, who is similarly placed to that of the petitioner was allowed bail by another Coordinate Bench of this Court vide order dated 13.01.2023 passed in CRM-M-21563-2022 (Annexure P4).

3.2 Ld. counsel has also pointed out towards the custody period of the petitioners and prays for grant of bail.

4.1 Ld. State counsel opposed the bail petition by pointing out towards the gravity of offence and the criminal antecedents of the petitioner, as he is involved in five other cases, in which he is facing trial and has been acquitted in four other cases.

4.2 However, it is not disputed by ld. State counsel that main accused Hariom @ Monty and Rishiraj @ Shanky, against whom the allegations are much more serious and who were got identified from the complainant, have already been allowed bail by Coordinate Bench of this Court vide order dated 09.09.2021 (Annexure P3). Similarly, co-accused Sandeep @ Daga has already been allowed bail vide order dated 13.01.2023 (Annexure P4). Petitioner is in custody for the last 4 years 6 months and 9 days in the present case, as per the custody certificate.

5. Having regard to the role attributed to the petitioner in this case, which is based on disclosure statement of the co-accused only and the fact that co-accused have already been allowed bail and also keeping in view the custody period of the petitioner, this Court is of the view that criminal antecedents of the petitioner cannot be the reason to decline him bail. As such, without commenting any anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and susrety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on usual terms and conditions.

(DEEPAK GUPTA)
JUDGE

18.01.2024

Vivek

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No