

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59933-2023

Reserved on: January 05, 2024

Pronounced on: January 08, 2024

2024:PHHC:001529

Irfan @ Kaatu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Ms. Garima Sharma, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, is made by the petitioner for his release on regular bail in a case arising out of FIR No.13 dated 30.01.2019 registered under Sections 302, 394, 395, 396, 397, 120-B IPC and under Section 25 of Arms Act, at Police Station Sector 20, Panchkula.

2. FIR in question was registered on the complaint of Vinod Kumar son of Pawan Kumar, resident of Sector 20, Panchkula, as per which, on 30.01.2019 at about 05:00/05:30 PM, he along with his 10-12 friends were playing cards in the showroom, in Sector 20, Panchkula, when 8-10 youths entered the showroom, all carrying weapons. 2-3 of them opened fire at them and scared them by brandishing their pistols and asked them to hand over whatever cash or gold they had. Upon resistance by 2-3 of the complainant's companions, they were given beatings with the help of helmets. 2-3 of the intruders also fired shot at them. All of them took away all their cash, mobile phones, gold ornaments and fled away while firing upon them. One of the gun shot hit Sunny, who was taken to

3. (i) Investigation was carried out. Spot was inspected. Empty cartridges, live cartridges, blood, mobile phones, driving licenses, helmets, LED and hard disc regarding CCTV footage, in which accused were captured from Katani Sweets near the place of occurrence, were taken into possession. Place of occurrence was also examined by team of scene of crime. On 31.01.2019, injured Sunny succumbed to the fire arm injury.

(ii) It was found during investigation that in case FIR No.95 of 2019 registered at Police Station Badapur, District Bijnor (UP) under Sections 302 and 307 IPC, co-accused Rohit had suffered disclosure statement to the Police that he along with Naveen, Hemant @ Lala, Vineet @ Vicky, Mohit; and Sunil Kumar @ Rana had made the plan, as per which the dacoity was committed in the showroom of Panchkula by Kuldeep, Mohit and other boys, who had come from Delhi and that during the incident, one person had died. Hemant, Naveen and Sunil were arrested from time to time. Their disclosure statements resulted in recovery of some of the cash amount, mobile used in the crime and Swift car. It also emerged in the disclosure statement that planning to commit dacoity was made at House No.92, Sector 25, Panchkula.

(iii) During further investigation, co-accused Jitender Kumar @ Jony was arrested on 09.06.2019. Based on the disclosure statement suffered by him during investigation, ₹3,000/-, gold ring and one mobile was recovered from him. He also disclosed the names of other persons, who had entered the showroom to commit dacoity as Raj Pal Singh, Irfan (*petitioner herein*), Atlaf and others. Co-accused Raj Pal Singh was arrested on the same date i.e., 09.06.2019 and based on his disclosure

statement, one mobile, ₹3,000/- and a sweatshirt worn by him at the time of crime, which was also evident in CCTV footage, were recovered. Co-accused Atlaf Khan and Irfan were also arrested on the same day i.e., 09.06.2019 and recoveries of cash amount and mobile were made.

(iv) During further investigation, test identification parade was conducted on 10.06.2019 before learned jurisdictional Magistrate, Panchkula, in which four co-accused, namely, Jitender Kumar, Atlaf Khan and Raj Pal Singh, besides petitioner-Irfan were identified by the complainant. Customer application forms of all the petitioners confirmed their location near the place of occurrence. During further investigation, Kuldeep @ Baba, Mohit and Mahesh were also arrested. Rest of the accused including Vinay are yet to be arrested.

(v) Final report under Section 173 Cr.P.C was filed against arrested accused. Out of 75 witnesses cited by the prosecution, 34 have already been examined and the next date of hearing before the Trial Court, as per the status report, is 10.01.2024.

4. It is contended by learned counsel for the petitioner that petitioner is not named in the FIR; that he has been arrested on the basis of disclosure statement of co-accused; that petitioner is in custody for the last more than 04 years; that after completion of the investigation, challan has already been filed; that only mobile phone, motorcycle and ₹2,500/- are shown to have been recovered from the petitioner and that no weapon was recovered from him. Learned counsel also contends that co-accused Hemant Kansal, Rohit, Naveen, Kuldeep @ Bawa, Mohit, Sunil Kumar @ Rana and Vinit @ Vicky have already been allowed bail by the Court from time to time by way of different orders as placed on record. With

these submissions, prayer is made for grant of bail.

5. Strongly opposing the bail petition, learned State counsel submits that the co-accused, who were allowed bail, were attributed to have either conspired for the commission of crime or to have conducted reiki and it was found that they had not actually participated in the crime by entering the show room. However, petitioner along with co-accused Rajpal Singh @ Jaspreet Singh @ Jassi, Jitender Kumar @ Jony and Altaf Khan were found to have actually entered the show room, so as to commit the crime. Learned State counsel also points out that bail to the similarly placed co-accused, namely, Rajpal Singh @ Jaspreet Singh @ Jassi, Jitender Kumar @ Jony and Altaf Khan had been dismissed by this Court vide order dated 17.04.2023. By pointing out towards the nature of allegations and the role attributed to the petitioner, prayer is made for rejecting the bail petition.

6. I have considered submissions of both the sides and have appraised the record carefully.

7. While allowing the bail to co-accused Sunil Kumar @ Rana and Vinit @ Vicky by this Court vide order dated 17.10.2023 (Annexure P-9) passed in CRM-M-45330-2023 and CRM-M-46245-2023, it was specifically observed by this Court that it is co-accused Rajpal Singh @ Jaspreet Singh @ Jassi, Jitender Kumar @ Jony and Altaf Khan, who along with petitioner Irfan @ Kaatu had entered into the showroom, so as to commit the crime, and it is for this reason that regular bail petitions of co-accused Rajpal Singh @ Jaspreet Singh @ Jassi, Jitender Kumar @ Jony and Altaf Khan were dismissed by this Court, vide a common order dated 17.04.2023 passed in CRM-M-31621-2022, CRM-M-40835-2022

and CRM-M-43964-2022, respectively. Rest of the co-accused, who were allowed bail, i.e., Hemant Kansal, Rohit, Naveen, Kuldip @ Bawa, Mohit, Sunil Kumar @ Rana and Vinit @ Vicky were found to have participated in the crime either by way of hatching the conspiracy or by conducting the reiki.

8. In view of the aforesaid facts and circumstances, case of the petitioner cannot be considered on parity with the co-accused Hemant Kansal etc., who had been allowed bail. To the contrary, the case of the petitioner is on parity with co-accused Rajpal Singh @ Jaspreet Singh @ Jassi, Jitender Kumar @ Jony and Altaf Khan, who along with petitioner Irfan had entered the showroom, so as to commit the crime.

9. Having regard to the gravity of the offence & the role attributed to the petitioner, but without commenting anything on the merits of the case, this Court is not inclined to grant regular bail to the petitioner. As such, present petition is dismissed. However, considering the fact that petitioner is in custody for the last more than 04 years and 06 months, as per custody certificate placed on record, the Trial Court is directed to make every possible endeavor to expedite the trial.

January 08, 2024

Sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking:

Whether reportable:

Yes/No

Yes/No