

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

Date of Decision: 10.12.2024

...Petitioners

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gautam Dutt, Advocate with
Mr. Ribhav Singla, Advocate
for the petitioners.

Mr. Bhupinder Singh, DAG, Haryana.

KULDEEP TIWARI, J. (ORAL)

1. The petitioners, who were arrested in this case in the year 2024 in the FIR, which was registered way back on 18.5.2014, has filed the instant petition, seeking the relief of regular bail in case FIR No.237 dated 18.05.2024 under Sections 120-B/395/397/412 of IPC, 1860 (Section 201 IPC added later on) and under Sections 25/54/59 of the Arms Act, 1959 registered at Police Station Dharuhera, District Rewari.

2. The FIR was registered on the statement made by one Zakir Hussain. The relevant extract of the same reads as under:-

“To the SHO, P.S. Dharuhera, Haryana. Sir, It is submitted that I, Zakir Hussain s/o Naru Khan, caste Muslim am resident of Village Hanootiya, P.S. Bijainagar, District Ajmer, Rajasthan. I drive truck No.HR-28G-0551. The owner of the truck is Imran. I brought this vehicle from Bhainse Nasirabad to Delhi Ghazipur Mandi. Guddu and Shahrukh were also with me in the vehicle. After unloading the vehicle in Mandi, Guddu, who is the employee of Sharfuddin alias Bhura, cattle owner took

Rs.38,67,000/- from Farid in Mandi, which we had to give to Bhura. I alongwith Guddu and Shahrukh knew about this money. Farid gave the money by keeping in two black bags. On 15.05.2014 at 11.30 PM, we went from Delhi to Nasirabad. On 16.05.2014 at 03:00 AM, when we were before Kapadiavas Chowk, we brought the truck to the service lane, where the truck was stopped due to traffic jam. In the meantime, 6-7 persons entered the truck from both the windows and caused us beating and made us sit on the back seat of the truck at the pistol point and drove the truck towards Bhiwadi and threatened us by asking where the bags of money were. We did not say anything due to fear. The miscreants searched the truck and looted both the black bags which contained Rs.38,67,000/-. After the looting, the miscreants fled in a white car Bolero and a black car. I can tell you the place of occurrence by seeing the same. After the looting, the miscreants also took my and Guddu's mobile phones. We informed the goods owner about the incident from Shahrukh's phone and we took the truck to Nasirabad. Yesterday, I, Guddu, Shahrukh and the goods owner Sharafuddin alias Bhura went to P.S. Bilaspur, who after conducting enquiry, today, sent us to P.S. Dharuhera. Kindly action be taken and the looted goods be recovered. Sd/- Zakir Hussain s/o Naru Khan, resident of village Hanootiya, P.S. Bijainagar, District Ajmer, Rajasthan 18.05.2014.”

3. In the instant case, the prosecution agency earlier arrested co-accused Islam Khan, and Altaf, and they were put to trial, and both of them were acquitted by the Ld. trial Court concerned vide judgment of acquittal dated 26.02.2015 (Annexure P-2). It is the case of the prosecution that name of the present petitioners was figured out on the basis of the disclosure statement of above named co-accused persons. However, the prosecution agency neither made any effort to arrest them, nor they were got declared proclaimed offenders by the prosecution agency. The petitioners were arrested

in a different FIR, which was registered in the year 2014, and were then taken into custody in the instant case by way of production warrants.

4. Learned counsel for the petitioners in the asking for the relief (supra), submits that except the disclosure statement of co-accused, there is no other incriminating evidence with the prosecution to connect the petitioners with the instant crime. Even during the police custody, no recovery was effected from the present petitioners, so as to connect them with the alleged crime. He further submits that the co-accused on the similar set of allegations, have already been acquitted by the learned trial Court concerned. Finally, he submits that the petitioners have suffered incarceration more than 06 months as on today, and the petitioners are involved in one other case, but this Court has already extended the relief of regular bail to them.

5. The learned State counsel has filed the status report dated 09.12.2024 by way of affidavit of Dr. Ravinder, HPS, Deputy Superintendent of Police, Rewari along with the custody certificate pertaining to Jamshed @ Lado-petitioner No.1, which are taken on record. He further inform this Court that challan has already been filed in this case on dated 30.10.2024, and the charges have been framed on dated 08.11.2024. The prosecution has cited total 25 witnesses, however, none of them has been examined so far.

6. Be that as it may, considering the fact that the petitioners have already suffered incarceration of more than 6 months as on today and the co-accused have already been acquitted by the learned trial Court concerned on the similar set of allegations and the fact that the petitioners have never been declared as a proclaimed offenders, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioners. Therefore, the present petition is **allowed**.

7. The petitioners are ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.
8. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

10.12.2024
ajay-1/Parveen kumar

(KULDEEP TIWARI)
JUDGE

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