



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-53685-2025(O&M)
Date of Decision: 26.09.2024

DEVENDER
...Petitioner
VERSUS
STATE OF HARYANA
...Respondent
CORAM : HON’BLE MR. JUSTICE SANJAY VASHISTH

Present : Mr. Deepender Singh, Advocate for the petitioner.
Mr. Amish Sharma, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
DEVENDER	300	26.04.2022	386, 395, 397 of IPC and Section 25/54/59 of Arms Act (later Section 201 IPC & Section 136 of Electricity Act added)	Sector-58	Faridabad, Haryana

2. As per the case of prosecution, on the intervening night of 25/26.04.2022, complainant Yashpal, who works as a Watchman at one



water booster situated on the road from Bhanakpur to village Khandawali, along with his father was sleeping inside the booster premises, when 5-6 unknown persons, with their faces covered, entered the premises by jumping over the wall. They allegedly threatened the complainant and his father with iron rods and sharp-edged weapons. They tied their hands and confined them as hostages. They committed theft from 1:30 am till 4:00 am and took away the copper cables from the transformer kept outside and loaded it in a vehicle. Apart from this, an amount of Rs.5500/- was also looted from the hostages.

3. Learned counsel for the petitioner argued that neither their names have been mentioned in the FIR, nor their physical appearance spotted at the time of incident. He further argued that similarly situated co-accused namely Virender, Ajay & Mukesh have already been granted the concession of regular bail by the trial Court, vide orders dated 17.06.2023, 20.07.2023 & 30.06.2023 (Annexures P4, P5 & P6), respectively.

4. He further submits that prosecution has shown involvement of the present petitioner only on the basis of disclosure statement of other co-accused, who in fact has already been released on regular bail. Except the alleged disclosure statement, no other evidence is available with the prosecution on record to substantiate the contents of the disclosure statement. As per settled law, it will be heavily upon the prosecution to substantiate the allegations and conviction cannot be based solely upon the disclosure statement of co-accused, which in fact is an inadmissible evidence. Petitioner is in custody since 29.05.2025 and in the other cases where he has been shown to be involved as mentioned in paragraph No.14 of



the petition, he is already on bail and has never been convicted in any of those cases, because trial in all such cases is still pending. Thus, learned counsel for the petitioner argued that the identity of the petitioner is yet to be established through the witnesses who as per prosecution were present at the site of incident. There are total 25 prosecution witnesses and process of recording of statement is yet to start because charges are yet to be framed. Thus, counsel for the petitioner prays for grant of regular bail.

5. On the other hand, learned State counsel while opposing the prayer made in the petition submits that petitioner seems to be an habitual offender, as he is involved in five other criminal cases, including the four cases detailed in para no.14 of the petition. However, he is unable to dispute that in none of those cases, the petitioner has been convicted till now.

6. I have heard learned counsel for the parties and have gone through the record carefully.

7. Taking into consideration the fact that identity of the petitioner is yet to be established by the prosecution. The process of trial is likely to take time considerable time and also the fact that other three co-accused have already been granted bail, this Court is of the view that by applying the principle of parity, petitioner deserves concession of regular bail. Therefore, prayer for grant of regular bail of the petitioner is worth considerable.

Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.



8. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

10. It is further made clear that if, in future, petitioner is directly found indulged in similar kind of activities, this order shall be deemed to be cancelled.

11. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

26.09.2024

Deepak Patwal

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