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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64219-2024
DECIDED ON: 08.01.2025

PARTEEK KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Saurabh, Advocate for
Mr. Karan Sachdeva, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)

Relief Sought

1. The jurisdiction of this Court has been invoked under Section 483 of the BNNS, 2023, for grant of regular bail to the petitioner in case FIR No. 334, dated 07.07.2024, under Sections 309(4), 311 of BNS and Section 28 of Arms Act, registered at Police Station Sadar Dabwali, District Sirsa.
2. The contents of the FIR is reproduced below :-

I, Rohitash, son of Mahendra Kumar, resident of Ratanpura. work as a salesman at Shyam Petro. Chautala Bypass, and my colleague Tony, son of Babloo, also works as a salesman at the petrol pump. On today's date, 07.07.2024, at approximately 2:28 PM, a Swift Desire car with four men inside stopped, and three of them got out with their faces covered and armed with pistols, swords, and some other weapons. They came into our petrol pump office and suddenly attacked us. One of them pointed



a pistol at my temple, while the other two broke the lock of our counter and stole cash. They also snatched a silver chain from my neck and Tony's mobile phone, Realme. which had the SIM number 88244-45933. They filled the vehicle with diesel worth 2803 rupees and fled in the Swift car. I do not remember the exact amount of cash that was stolen, but I will inform you of the details later. I request that you search for the four unidentified youths in the Swift car and recover the cash, chain, and mobile phone, and take strict legal action against them. Date:07.07.2024 Applicant: Rohitash, son of Mahendra Kumar, resident of Ratanpura, current salesman at Shyam Petro. Chautala Bypass Phone: 72405-37212.'

Submissions

On behalf of the Petitioner

3. Learned counsel for the petitioner argues that the petitioner has been falsely implicated in the instant case wherein he has been roped only on the basis of disclosure statement of the co-accused from whom recovery of Rs.1500/-, silver chain belonging to the complainant has been effected. He further contends that no recovery of any amount or weapon has been effected from him and he is behind the bars since 08.08.2024 and challan stands presented on 03.10.2024. It is further asserted that the petitioner is ready and willing to join the investigation and cooperate

4. Notice of motion.

On behalf of the State.

5. On the asking of Court, Mr. Chetan Sharma, who is present in the court accepts notice on behalf of respondent-State and at the very outset contends that the that petitioner had earlier also filed a petition bearing CRM-



M-54432-2024 for the grant of concession of regular bail which was dismissed as withdrawn vide order dated 07.11.2024 and the said fact has been concealed by the counsel for the petitioner. He further contends that petitioner in connivance with the co accused has committed robbery at a petrol pump in pursuance to which they took away cash amount, silver chain and mobile phone belonging to the sales men. It is argued that the petitioner is involved in another case bearing FIR No. 565 dated 07.07.2024 under section 304(4) BNS, 2023 at Police Station Hanumangarh meaning thereby he is a habitual offender and concession of regular bail might hamper the trial proceedings. Thus, the petitioner is not entitled to be released on regular bail.

6. Heard learned counsel for the respective parties at length.

Analysis

7. Admittedly, the petitioner has concealed the fact of filing an earlier application under section 483 BNSS, 2023, bearing CRM-M-54432-2024 which was dismissed as withdrawn vide order dated 07.11.2024. The law is well settled that where a process is “*ex dibito justitae*”, the court would refuse to exercise its discretion in favour of the petitioner where the application is found to be wanting in *bonafide*.

8. Apex Court in case of “*Hari Narain vs Badri Dass, AIR 1963S.C,1558*” approved the above said principle and the same was followed in the case of “*Welcome Hotel vs State of Andhra Pradesh, (1983) 4 SCC*” wherein it was held that a party which has misled the court is not entitled to any consideration at the hands of the court.



Conclusion

9. In the considered opinion of this court, the petitioner has not approached the court seeking relief of regular bail with the clean hands.
10. Hence, the same stands dismissed with no order as to costs.
11. However, it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

08.01.2025
Anuradha

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>