

Anoop @ Kala Vs. State of Haryana

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**In the Court of Ms. Rajni Yadav, Additional Sessions Judge, Bhiwani
(UID No.HR-0134).**

HRBH010081492022



: BA/1577/2022

Bail Application No. : 507 of 2022

Date of Institution : 4.10.2022

Date of Order : 10.10.2022.

Anoop @ Kala, aged about 31 years, son of Ramchander, resident of village Bhalang, District Kaithal.

.....Applicant/accused.

Versus

State of Haryana.

.....Respondent.

FIR No.	540 dated 9.9.2021
Under Sections	120B, 201, 341, 342, 365, 395 and 397 of the Indian Penal Code, 1860 (for short IPC) and Section 25, 54 and 59 of The Indian Arms Act (for short Arms Act)
Police Station	Sadar Bhiwani.

1st application for bail under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C.)

Present : Shri R.K. Gugnani, Advocate for applicant/accused Anoop @ Kala.
Shri Gaurav Kumar, Assistant Public Prosecutor for State/ respondent.

Rajni Yadav,
ASJ, Bhiwani,
UID No.HR-0134,
Dated : 10.10.2022.

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ORDER :

1. Prayer in this petition (hereinafter referred to as bail application) of the applicant/accused (hereinafter referred to as the accused) is for grant of regular bail.

2. Brief facts of the case of the prosecution is that on 07.09.2021 at around 1.00/1.30 A.M, near village Tigrana, 5-6 young persons snatched combine machine and mobile phones from its driver namely Kuldeep and one Gurvinder Singh.

3. It is argued by learned counsel for the accused that he is in custody since 8.4.2022, five of the co-accused are already on bail and as a case of parity, bail prayed for.

4. Learned Public Prosecutor opposed the bail application stating that these are total seven accused in the FIR and five are on bail. Recovery of parts of the loaded combine machine was effected from this accused. On these grounds, bail opposed.

5. I have heard the arguments of both the sides and perused the entire record.

6. It has been conceded by both the parties that no other bail application except the present one, is presently pending and similar report has also been presented by the Ahlmad of the Court by verifying these facts from e-court site.

Rajni Yadav,
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7. In the appreciated facts and circumstances of the case, co-accused are on bail on the similar allegations raised against them. Challan has already been filed. As trial is going to take long to conclude, no fruitful purpose will be served in keeping the accused behind bar any more.

8. It is settled law that while deciding the grant of bail, seriousness of the offence, likelihood of the accused fleeing from justice, impact of release of the accused on the prosecution witnesses and likelihood of the accused tampering with evidence are primary considerations, but, at the same time, the Court has to come to a reasonable conclusion as to whether there is any prima facie or reasonable ground to believe that the accused has committed the offence, followed by the nature and gravity of the charge and severity of the punishment.

9. It has been humbly opined by Hon'ble Superior Courts that certain important factors relating to prima facie involvement of the accused have to be considered, though no detailed discussion regarding merits of the case is required.

10. In **Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18)** a three-member Bench of Hon'ble Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence

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of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations.

11. In **Gudikanti Narasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16)**, Hon'ble Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course.

12. In **Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280**, Hon'ble Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations.

13. In **Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6)**, Hon'ble Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner.

14. In these circumstances, the present regular bail application of accused Anoop @ Kala is allowed and he is granted bail subject to his furnishing bail bonds/surety bonds in the sum of Rs.1,00,000/- (one lakh) with one local surety to the satisfaction of the learned Area Magistrate/ Duty Magistrate.

15. It is made clear that the accused shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

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16. The observations hereinabove shall not be construed as an expression on the merits of the case and the trial will be decided on the basis of available material.

17. Copy of order be sent accordingly.

Pronounced in open Court
Dated: 10.10.2022.

(Rajni Yadav),
Additional Sessions Judge,
Bhiwani, (UID No.HR-0134)

Note : All the five pages of this order have been checked and signed by me.

Dated : 10.10.2022
Shiv Kumar, Stenographer Grade-II

(Rajni Yadav),
Additional Sessions Judge,
Bhiwani, (UID No.HR-0134)

Rajni Yadav,
ASJ, Bhiwani,
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Present : Shri R.K. Gugnani, Advocate for applicant/accused Anoop @ Kala.
Shri Gaurav Kumar, Assistant Public Prosecutor for State/ respondent.

Status report filed.

Arguments heard.

Vide my separate order of even date, the present bail application of accused Anoop @ Kala has been allowed.

Papers be tagged with the main case file or consigned to the records, as the case may be.

Pronounced in open Court
Dated: 10.10.2022

(Rajni Yadav),
Additional Sessions Judge,
Bhiwani, (UID No.HR-0134)

Shiv Kumar, Stenographer Grade-II

Rajni Yadav,
ASJ, Bhiwani,
UID No.HR-0134,
Dated : 10.10.2022.