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Ankit Vs. State of Haryana

HRPK-01-00-4348-2022



Presented on : 23.11.2022
Registered on : 23.11.2022
Decided on : 01.12.2022
Duration : 0 year, 0 month, 08 days

**IN THE COURT OF
Additional Sessions Judge
at Panchkula.
(Presided Over by Sunil Kumar-II)
UID No.HR-0233**

BA/1453/2022

Ankit, aged about 22 years, son of Shri Mahipal, resident of Village-Narayanpur, Tehsil and District-Panchkula.

.....Applicant/Accused.

VERSUS

State of Haryana

.....Respondent.

FIR No.30 dated 06.02.2022
Under Sections–285/323/307/506/216/34/120-B IPC
and Section-25/29 of Arms Act,1959.
Police Station : Raipur Rani, Panchkula.

BAIL APPLICATION UNDER SECTION-439 OF CR.P.C.

Present: Sh. Moin Hussan, Advocate for the applicant/accused.
Sh. Pawan Bishnoi, Ld. Public Prosecutor.

ORDER:

The instant application for bail under Section-439 of Cr.P.C. has been filed by the applicant/accused named above with the averments that he is an innocent person who has not committed any offence. He has been falsely implicated in the instant case. The applicant/accused does not have

(Sunil Kumar-II)
ASJ, PKL 01.12.2022

any nexus with the co-accused persons. The applicant/accused was arrested on 01.03.2022 and he is in custody since then. No recovery is to be effected from the applicant/accused. Challan has been submitted after investigation. The applicant/accused would appear on each and every date of hearing during the trial. The applicant/accused does not have any criminal record. The trial would take considerable time to conclude and no fruitful purpose would be served by keeping the applicant/accused behind the bars. The applicant/accused undertakes to abide by all the terms and conditions imposed by the court while granting the bail. The applicant/accused would not tamper with the evidence of prosecution and he would not leave country without prior permission of the Court. It is on the above grounds that the applicant/accused has prayed for regular bail under Section-439 of Cr.P.C.

2. On notice of the bail application, reply to the same through learned Public Prosecutor has been filed. In the reply, it is stated that the instant FIR has been registered on the basis of statement of one Sinder Pal son of Ram Kumar, resident of Village-Narainpur, Police Station-Raipur Rani, District-Panchkula. The complainant Sinder Pal stated that there was a marriage in his Village on 05.02.2022. After taking the meal in the marriage, the complainant and his friends Vishal, Lakhwinder and Sahil were standing near the Aanganwadi situated in his Village. Meanwhile, the applicant/accused Ankit with three other boys came on a Splendor motorcycle. Other three boys were not known to the complainant. Said Ankit and other three boys started to abuse the complainant and his friends as they were under the

influence of liquor. They started to manhandle the complainant and his friends. Thereafter, the applicant/accused Ankit and other two boys took out a pistol and fired three shots in the air. Blows with pistol butt were administered on the head of the complainant and Vishal. The applicant/accused and other three boys threatened to kill the complainant and his friends. They ran away on the motorcycle. Due to darkness, the complainant could not see the number of the motorcycle. On the basis of statement to the above effect and MLR, the instant FIR was registered under Sections-285/323/506/34 IPC and Section-25 of the Arms Act, 1959. The spot of occurrence was inspected. The empty cartridges were recovered from the spot and they were taken into police custody. Site plan of the place of occurrence was prepared. The injuries sustained by the victims were simple and blunt injuries. It was on 28.02.2022 that the applicant/accused Ankit was duly arrested and his confessional statement was recorded. Section-307 of IPC was added to the instant FIR. The applicant/accused was identified by Sinder Pal and Vishal and memo of identification was prepared. The pistol used in the commission of offences was got recovered by the applicant /accused on 01.03.2022 from the fields of Village-Kheri, District-Panchkula and same was taken into police custody. Spot of occurrence was got identified by the applicant/accused. It was on 30.03.2022 that co-accused Vikas @ Jonny was duly arrested and his confessional statement was recorded. He got recovered the motorcycle bearing registration No. HR03J-7241 from his house situated in Village-Garhi Kotaha, District-Panchkula. It

was on 11.04.2022 that co-accused Goldy Kumar was duly arrested and his confessional statement was recorded. He along with Annu Gujjar provided refuge to the accused persons. Hence, Section-216 of IPC was added to the instant FIR. Accused Goldy Kumar handed over illegal country made pistol to applicant/accused Ankit. Therefore, Section-29 of the Arms Act, 1959 and Section-120-B of IPC were also added to the instant FIR. On completion of investigation, report under Section-173 of Cr.P.C. was filed against accused Ankit, Vikas @ Jony and Goldy Kumar in the Court concerned on 25.05.2022. Anticipatory bail was granted to accused Rajwinder @ Annu Gujjar by the Hon'ble High Court of Punjab & Haryana at Chandigarh. Co-accused Nisar Mohd. was duly arrested on 06.10.2022 and his confessional statement was recorded. On 09.10.2022, said Nisar Mohd. got recovered country made pistol used in the commission of offences from his house and same was taken into police custody. Supplementary challan against accused Rajwinder @ Annu Gujjar and Nisar Mohd. is yet to be filed. The applicant/accused is the main accused and he is a habitual offender against whom other cases are registered in District-Yamuna Nagar. If granted bail, the applicant/accused may threaten the witnesses and offences may be again committed by him. The applicant/accused may also jump the bail. It is stated that FIR No. 398 dated 26.11.2021 under Sections-307/120-B of IPC and Section-25 of the Arms Act, 1959, Police Station-Bilaspur, District-Yamuna Nagar, FIR No. 27 dated 25.01.2022 under Sections-379B/307 of IPC and Section-25 of the Arms Act, 1959, Police Station-Sadhora District-Yamuna

Nagar and FIR No. 147 dated 23.10.2017 under Sections-148/149/323/506 of IPC, Police Station-Raipur Rani, District-Panchkula are the other criminal cases registered against the applicant/accused in the past. It is on the above grounds that the application for bail is sought to be dismissed.

3. I have gone through the contents of the bail application as well as the reply filed to the same. Arguments led by learned counsel for the applicant/accused as well as learned Public Prosecutor have been heard at length by me.

4. The applicant/accused is in custody since 28.02.2022. Report under Section-173 of Cr.P.C. after completion of investigation qua the applicant/accused has since been submitted on 25.05.2022. No doubt, criminal cases registered in the past against the applicant/accused would show that he is a person with criminal antecedents but the facts of the instant case have got to be appreciated by the Court. In his statement made before the police, the complainant Sinder Pal specifically stated that three shots were fired in the air by the applicant/accused Ankit and three boys in his company. In the above circumstances, it would be a moot point during the trial as to whether ingredients of Section-307 of IPC are made out. Nothing remains to be investigated so far as the applicant/accused is concerned. The trial in the case would take time and already the applicant/accused is in custody for a period of more than nine months. There is no reasonable likelihood of the applicant/accused escaping from the process of law. All the accused persons in this case have already been arrested and there is no scope

for the applicant/accused causing obstruction in the arrest of any other accused. In the above circumstances, it would not be justiciable to keep the applicant/accused behind the bars any longer.

5. For the reasons recorded above, the application for bail under Section-439 of Cr.P.C. filed by the applicant/accused Ankit is allowed and he is admitted to regular bail subject to furnishing personal bond in the sum of ₹1,00,000 with one surety of the like amount to the satisfaction of this Court. Requisite personal bond and surety bond are not furnished today. Let the file of bail application be tagged with the file of the main trial pending disposal before this Court.

Dated : 01.12.2022
(Bhupinder)

(Sunil Kumar-II),
Additional Sessions Judge,
Panchkula. (UID : HR0233)

Note: Each of -6- pages of this order has been checked and signed by me.

(Sunil Kumar-II),
Additional Sessions Judge,
Panchkula.

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Present: Sh. Moin Hussan, Advocate for the applicant/accused.
Sh. Pawan Bishnoi, Ld. Public Prosecutor.

Arguments on the application for bail under Section-439 Cr.P.C.

heard. Order pronounced. Vide my separate detailed order of even date, the application for bail under Section-439 Cr.P.C. filed by the applicant/accused Ankit is allowed and he is admitted to regular bail subject to furnishing personal bond in the sum of ₹1,00,000/- with one surety of the like amount to the satisfaction of this Court. Requisite personal bond and surety bond are not furnished today. Let the file of bail application be tagged with the file of the main trial pending disposal before this Court.

Announced in open court.
Dated : 01.12.2022
Bhupinder

(Sunil Kumar-II),
Addl. Sessions Judge,
Panchkula. UID : HR0233

(Sunil Kumar-II)
ASJ, PKL 01.12.2022