

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

CRM No.M-1129 of 2016 (O&M)

Date of Decision: 17.02.2016

Rajesh Kumar @ Meeka

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Balram Singh, Advocate for the petitioner.

Mr. K.D. Sachdeva, Additional Advocate General, Punjab.

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TEJINDER SINGH DHINDSA.J.

Petitioner seeks benefit of regular bail pending trial in case FIR No.190 dated 18.04.2015, under Sections 379 BII/323/427/395/397/398/482 IPC, registered at Police Station City Phagwara, District Kapurthala.

FIR came to be registered on the statement of Shiv Kumar Goel. Allegations are that on 18.04.2015 while the complainant was going back to his house in a car, a bag containing Rs.12 lacs was kept along side the driver seat. Three young boys on a motorcycle intercepted the vehicle of the complainant and by breaking the glass of the car with a datar and baseball, the bag carrying money was snatched. Further allegations are that the datar also hit on the right shoulder of the complainant.

Concededly, the complainant suffered a supplementary statement thereafter stating that the bag contained only Rs.3.5 lacs. Perusal of the order dated 10.11.2015 passed by the learned Sessions Judge Kapurthala declining benefit of bail to the petitioner would show that it has been observed that the motorcycle used in the commission of offence has been recovered from the petitioner and that he having evaded the process of law had been declared a proclaimed offender.

Counsel appearing for the petitioner has referred to a copy of the identity card of the petitioner issued by the Election Commission of India at Annexure P-5 which carries his address as H.No.97, Mohalla Valmik, Village Phagwara Grabi, Tehsil Phagwara, District Kapurthala. Counsel would then advert to the non-bailable warrants issued by the SDM, Phagwara at Annexure P-4 which carried a different address. It is submitted that under such circumstances the petitioner was never served the summons and as such for no fault of the petitioner, he had been declared a proclaimed offender.

Be that as it may, petitioner was arrested on 08.09.2015 and has been in custody ever since.

As regards recovery of the motorcycle as per observations made by the trial Court, learned State counsel who is upon instructions from SI Hardevpreet Singh would clarify that the recovery of the motorcycle was in fact made from co-accused, Sanjay and who has since been granted bail. It is also the conceded position that recovery of Rs.2.75 lacs has been effected not from the present petitioner but from the co-accused.

Investigation in the case is complete and even the challan has been presented. Learned State counsel further informs that the charges are yet to be framed. The trial, as such, is at the very initial stage.

In view of the circumstances noticed hereinabove and keeping in view the fact that the petitioner has suffered incarceration since 08.09.2015, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Kapurthala.

Disposed of.

17.02.2016

(TEJINDER SINGH DHINDSA)
JUDGE