

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No.M-21835 of 2018 (O&M)
Date of Decision: July 11, 2018**

Nitin Kumar Sharma

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Hooda, Advocate
for the petitioner (s).

Ms. Dimple Jain, AAG, Haryana.

Mr. Amit Prashar, Advocate
for complainant.

SURINDER GUPTA, J.(Oral)

CRM-23297-2018

This is application for addition of Sections 180 and 203 IPC in
the main petition.

Learned State counsel submits that she has no objection, if the
present application is allowed.

Ordered accordingly.

Registry is directed to add Sections 180 and 203 IPC in prayer
and relief clause of the petition.

CRM-M-21835-2018

The present petition has been filed under Section 439 Code of

Criminal Procedure for grant of regular bail to the petitioner in case FIR No.538 dated 02.11.2017 registered for the offences punishable under Section 380, 180 and 203 read with Section 34 of Indian Penal Code at Police Station NIT Faridabad.

Heard.

As per the allegations in the FIR, articles lying in the property of complainant were found stolen on 11.10.2017. The complainant suspected that petitioner has committed the theft and taken away the articles lying in his factory on a truck.

Learned State counsel on instructions from ASI Sohan Lal submits that police during investigation has recorded statement of Chowkidar Sham Shukla, who has stated that the theft was committed by petitioner Nitin Sharma, however, she is not in a position to tell the date on which the statement of Chowkidar was recorded. She further submitted that no recovery has been effected from the petitioner, who was arrested in this case on 17.04.2018 and is in judicial custody since then.

Learned counsel for the complainant submits that there is dispute regarding this property, which was on lease with father-in-law of petitioner but due to non-payment of bank loan, this property was auctioned and purchased by complainant's father. The possession of the property was with the complainant, who had kept his material in this property.

So far as the question of title or auction of property in dispute is concerned, it has no relevance in this petition. The police case is based on the statement of Chowkidar. No recovery has been effected from the petitioner, who is in judicial custody for the last more than three months.

Keeping in view the above fact but without expressing any opinion on merits of the case and that the conclusion of trial will take considerably long time, the present petition is allowed. Petitioner Nitin Kumar Sharma is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without prior permission of the Court.

July 11, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***