

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 5592 of 2018 (O&M)

Date of decision : 6.3.2018

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Noordin

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr.Rajesh Lamba, Advocate the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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H. S. Madaan, J.

This petition for regular bail has been filed by Noordin, an accused in FIR No. 727 dated 4.10.2017, for an offence under Sections 379-A IPC, registered at Police Station Sector 55, District Faridabad.

Briefly stated, facts of the case, as per prosecution story are that 27.9.2017, at about 9.45 P.M. In the area of JCB Chowk, Ballabgarh, a mobile phone make Samsung Galaxy J7 Prime, having number 8750575209 and 8360008859, was snatched from the complainant – Dinesh. On the basis of written complaint submitted by the complainant, formal FIR was recorded and thereafter case was investigated. The accused was arrested in this case on 17.12.2017. He is stated to have suffered a disclosure statement and the mobile phone in question was recovered from him.

The petitioner had filed an application for regular bail in the Court of Sessions, which was assigned to Additional Sessions Judge, Faridabad, but it dismissed the same vide order dated 23.1.2018. Hence the petitioner has approached this Court with a similar request which is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

Learned counsel for the petitioner has contended that there is a delay of 7 days in lodging the FIR; the applicant is not named therein; the recovery has been effected and he is behind the bars for more than two months, as such he be granted regular bail.

However, I find little merit in these contentions. The delay in filing the FIR by itself is not a ground to disbelieve the prosecution story, unless a strong motive is there for false implication of the accused, which in this case has not been alleged at this stage. As regards the applicant not being named in the FIR, the purpose of FIR is to set the criminal machinery into motion and it may not contain the minute and fine details of the incident. It is only after recording of the FIR that the matter is investigated and then it can be found out as to who had committed the crime and the detailed execution thereof. The petitioner cannot take advantage of the fact that his name does not figure in the FIR. As regards the recovery having been effected from him, that rather goes to show his involvement in the incident. Since it has not been explained as to how and in what manner the petitioner came in possession of the mobile phone of the complainant which had been snatched. As per the custody certificate filed by the State

counsel, the petitioner is involved in two more criminal cases, the details of which are given as under:-

1. FIR No. 964 dated 17.10.2017, under Sections 120-B IPC, 25,54,59 of Arms Act, 34 IPC, 379 , 506 IPC, registered at Police Station Saran, Faridabad.
2. FIR No. 993 dated 24.10.2017, under Section 379 IPC, registered at Police Station Saran, Faridabad

That means he has got a criminal bent of mind and if released on bail, there is every likelihood of his taking to the path of crime again causing disturbance in the society. Challan against him is stated to have been filed and charge framed. If during the trial, he is found to be innocent, he would be acquitted. But at this stage, no ground for grant of bail to the petitioner is made out. The petition stands dismissed accordingly.

6.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No