

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

CRM-M-3536-2019 (O&M)

Date of decision:28.02.2019

Pargat Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Ms. Sushma Chopra, Advocate, for the petitioner.

Mr. K.S.Aulakh, DAG, Punjab.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No.14 dated 10.06.2018 under Sections 420, 364-A, 382, 386, 387, 212, 216, 216-A, 120-B of IPC and Section 42 & 52-A of Prisons Act and Sections 10, 11 & 13 of Unlawful Activities Prevention Act, 1967, registered at Police Station State Special Operation Cell, Amritsar, District Amritsar.

Learned counsel for the petitioner contends that the case against the petitioner is totally concocted. It is an admitted fact that at the time when the offence is alleged to have been committed, the petitioner was in custody in Central Jail, Amritsar. Therefore, he has no reason or occasion to participate in the offence. The only allegation against the petitioner is that the petitioner was using mobile phone, while in custody in jail. Learned counsel for the petitioner has further submitted that qua the use of mobile phone, there is nothing with the police to show that by calling through or by using this mobile number, the petitioner was involved in any specific criminal activity. Challan has already been filed and the petitioner is not required for any investigation purposes.

On the other hand, learned State counsel submits that the petitioner was found possessing a sim card, which is in the name of the brother of the petitioner. He has been found using this mobile number for making calls and for internet. However, the learned State counsel has not pointed out any specific criminal activity undertaken through this mobile number.

In response thereto, learned counsel for the petitioner submits that if the petitioner was in custody and still a mobile number /sim card was with him, then it is the jail staff, who is responsible and which is to be punished and not the petitioner. The petitioner can be punished only if the said mobile phone is found to be involved in any criminal activity.

In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

28.02.2019

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No