

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

**CRM-M-2406 of 2020**

**Date of Decision:-02.07.2020**

Sukhwinder Mall alias Ravi

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. R.P. Dhir, Advocate  
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

**JASGURPREET SINGH PURI J.(Oral)**

The matter taken up through video conferencing.

Petitioner-Sukhwinder Mall @ Ravi has filed the present second petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No. 5 dated 15.01.2016, under Sections 379, 380, 545, 457 and 411 IPC, registered at Police Station Sadar, District Hoshiarpur.

The first bail application was filed before this Court vide CRM-M-51345 of 2019, which was dismissed as withdrawn on 13.01.2020.

The allegations contained in the aforesaid FIR are that an information was received by the police that there were number of persons, who are sitting altogether, having some instruments in their hands and

roaming in the area for the purpose of committing crime of theft and therefore they need to be apprehended. Thereafter a theft was allegedly committed with regard to some gold and silver ornaments from the house of complainant Daljit Singh and recovery was also effected.

Learned counsel for the petitioner has submitted that there were total four accused in the present case, namely, Lakhvir Singh, Sukhwinder Mall alias Ravi (petitioner), Davinder Singh @ Teeta and Sandeep Singh @ Mani. He has further submitted that the trial of the case had commenced and culminated into conviction of Lakhvir Singh, who had been sentenced for 17 months' imprisonment. So far as the petitioner is concerned, he was declared as proclaimed offender on 19.08.2017, however, he had voluntarily surrendered before the police on 13.09.2019. Learned counsel for the petitioner has further submitted that in fact he was not present in India and had left for Dubai on 01.06.2016 and came back on 01.12.2017 and thereafter he had again and again gone abroad for a number of occasions on work permits. He further submitted that the proclamation proceedings were bad in law as the petitioner was never served because he was not in India when he was declared proclaimed offender. However, on learning regarding the same, he himself surrendered before the police and at present he is facing the trial. Learned counsel further submitted that out of total 17 witnesses cited by the prosecution, five have already been examined in total and two witnesses have been examined in chief only. The last date fixed before the trial Court was 04.03.2020 and thereafter the proceedings could not been carried on because of Covid epidemic in the country.

Learned counsel for the petitioner has further submitted that he is entitled for grant of bail in the present case especially in view of the fact that co-accused namely Lakhvir Singh had already been convicted for 17 months and the petitioner has already undergone 09 months and 18 days in custody till now and in view of on-going Covid epidemic problem in the State of Punjab, there is remote possibility of commencing of trial in the next few months. He has further submitted that there is no other case against the petitioner as of now and that he was falsely implicated in the present case and was wrongly declared proclaimed offender in violation of law and therefore he is entitled for the concession of bail.

Learned State counsel on instructions from ASI Gurmail Singh has stated that it is correct that out of total 17 witnesses cited by the prosecution only five witnesses have been totally examined and two witnesses have been examined in chief only and the last date fixed before the trial Court was 04.03.2020. He has also submitted that it is correct that as per custody certificate there is no other case against the petitioner. He has not disputed that earlier the petitioner was declared proclaimed offender but he voluntarily surrendered before the police himself and presently facing the trial. The conviction period of the co-accused Lakhvir Singh is also not disputed by learned State counsel. However, he has opposed the bail application on the ground that the matter involves theft of gold and silver ornaments and therefore prays for dismissal of the bail application.

I have heard learned counsel for the parties through video conferencing. On 10.06.2020 the main case was preponed for today on the ground that the learned counsel for the petitioner had made a statement that

co-accused was sentenced only for 08 months and the petitioner had already undergone 9-½ months. Shri R.P. Dhir, learned counsel for the petitioner today has specifically submitted that the mentioning of 08 months was on the basis of mis-communication from the petitioner and that was inadvertent mistake and that he has checked up from the official records of the lower Courts records that the co-accused namely Lakhvir Singh was convicted for 17 months and not for 08 months and that the earlier statement was result of an inadvertent mistake. Learned State counsel has also not disputed the conviction period of co-accused Lakhvir Singh. It is also not disputed by the State that the petitioner had himself surrendered before the police and he is now facing the trial and out of total 17 cited witnesses, five witnesses have been totally examined and two witnesses have been examined in chief and it was because of on-going Covid epidemic in the State of Punjab, the proceedings could not be commenced after 04.03.2020 and considering the present scenario it is not likely that the matter may be taken up in the next few months unless the situation improves. However, the fact remains that the petitioner has been in custody for about 09 months and 18 days and admittedly there is no other case pending against the petitioner.

Therefore, taking into consideration the totality of circumstances in the present case, I deem it fit and appropriate to admit the petitioner on bail. Resultantly, the present petition is allowed. It is ordered that the petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Hoshiarpur.

However, anything observed hereinabove shall not be treated

as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

July 02, 2020  
Vijay Asija

( JASGURPREET SINGH PURI )  
JUDGE

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|---------------------------|----------|
| Whether speaking/reasoned | Yes / No |
| Whether Reportable        | Yes / No |