

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-995-2021 (O&M)
Date of Decision:-16.9.2021

Abdul Kayyum

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Randeep S. Dhulll, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Gajraj.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.208 dated 12.6.2020 at Police Station DLF, Gurugram, District Gurugram under Section 379-A read with Section 34 of Indian Penal Code.
2. The FIR was lodged at the instance of Ritu Khaneja, wherein it is alleged that on the date of occurrence i.e. on 11.6.2020 at about 7:45 p.m., while she was walking from Essel Tower to Heritage City and was talking to somebody on her mobile phone, 2 boys came from behind on a motorcycle and snatched her mobile phone and fled away from the spot.
3. Learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and has been falsely implicated and that when the complainant was examined during the proceedings of trial, she has not

identified the petitioner to be the accused. Learned counsel, in this regard, has shown a certified copy of the testimony of PW-7 Ritu Khaneja, a perusal of which does show that the complainant has not identified the accused.

4. Opposing the petition, learned State counsel has submitted that since the mobile phone in question was recovered from the petitioner, his complicity is clearly evident. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 10 months and that he happens to be involved in 2 other cases. It has been informed that in the instant case 7 out of cited 14 PWs have been examined.
5. I have considered rival submissions addressed before this Court.
6. A perusal of the testimony of the complainant i.e. PW-7 Ritu Khaneja indeed shows that she has not supported the case of the prosecution by not identifying the petitioner to be the accused. The evidentiary value of the recovery of mobile phone and also the motorcycle stated to have been used in the occurrence will be debatable in the absence of a categorical statement on behalf of the petitioner as regards the identification of the petitioner to be the accused. In any case, since the petitioner has been behind bars for a substantial period of about 10 months and the complainant already stands examined, further detention will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.9.2021

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

(Gurvinder Singh Gill)
Judge