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

**CRM-M No.23668 of 2021(O&M)
Date of Decision: 29.07.2021**

Jaspal Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Vinay Kumar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.31 dated 29.03.2017 registered under Sections 379, 411 IPC at Police Station Ghuman, District Batala.

The FIR was registered on the basis of secret information that the petitioner and co-accused Jagdeep Singh used to commit theft of mobile phones and other articles and

used to sell at lower rates. A naka was installed. A motorcycle was signaled to be stopped. The accused tried to run away, but were apprehended. One mobile Oppo was recovered from the personal search of the petitioner. From the personal search of Jagdeep Singh, one mobile J-7 was recovered. Co-accused Jagdeep Singh has already expired. FIR is of 29.03.2017. The offences alleged are under Section 379 read with Section 411 IPC i.e. recipient of booty subject matter of theft.

It appears that the petitioner was granted bail and thereafter, he absented from the Court on 09.04.2019. Notice was issued to him for 15.05.2019, but still he did not appear. He was summoned through bailable warrants for 15.07.2019 and 08.08.2019, but he still did not appear and his bail was cancelled and bail bonds and surety bonds were forfeited to the State vide order dated 08.08.2019. Petitioner was summoned through non-bailable warrants. The presence of the petitioner could not be secured even through non-bailable warrants and consequently, proclamation was done and he was declared as proclaimed person on 19.02.2021.

Learned counsel for the petitioner submits that vide order dated 13.03.2020, application filed by the petitioner under Section 438 Cr.P.C was accepted and he was directed to surrender before the trial Court within 15 days from 13.03.2020.

Thereafter, he also moved an application before the Court of Additional Sessions Judge, Gurdaspur on 28.08.2020, seeking extension of time for surrender. The said application was allowed vide order dated 04.09.2020. The applicant/petitioner could not surrender before the Court and again moved an application. Due to repeated fault, the application was not answered favourably and application for extension of time was dismissed vide order dated 28.09.2020 passed by the Additional Sessions Judge, Gurdaspur. Learned counsel further submits that in order to allege the mobile phones to be the booty of theft, there has to be an FIR of offence under Section 379 IPC. The theft has been presumed solely on the basis of recovery of mobile phones from the petitioner and co-accused. Now the petitioner is in custody since 25.04.2021. Petitioner is ready to furnish heavy bail bonds and surety bonds to the satisfaction of the trial Court.

Learned State counsel on instructions from ASI Hardev Singh, however, opposed the bail on the premise that the petitioner has repeatedly committed misconduct in not appearing before the Court after grant of bail.

Having considered the background of this case, I find that the complicity of the petitioner would remain debatable.

In view of facts and circumstances of the case and

without meaning anything on merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

29.07.2021

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No