

CRM-M-24074-2021

Date of Decision: 30.07.2021

Asif Ansari @ Aasif Ansari

.....Petitioner

Vs.

State of UT, Chandigarh

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Sahil Parmar, Advocate,
for the petitioner

Mr. A.M. Punchhi, PP, UT, Chandigarh.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conference.

On 01.07.2021, the following order had been passed by this

court:-

“Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.116, dated 05.05.2021, having been registered at Police Station Sector-39, Chandigarh, alleging therein the commission of offences punishable under the provisions of Sections 379-A/411/34 of the IPC.

Though the learned Public Prosecutor, UT, Chandigarh, submits (upon query of this court) that the petitioner was identified as one of the two boys who had snatched the complainants' mobile phone, Mr. Parmar submits that as a matter of fact no test identification parade was held and that in fact even though the disclosure statement as regards the motorcycle alleged to have been used in the commission of the crime was also made by his co-accused, to the effect that he had parked it at a particular place, the recovery thereof is shown to have been made from the petitioner, who has been actually arrested from District Yamunanagar and brought to Chandigarh.

A gazetted officer is directed to file a reply to the petition, obviously answering the aforesaid arguments

raised by learned counsel for the petitioner.

Adjourned to 22.07.2021.

It shall also be stated as to whether any other criminal case stands registered against the petitioner and the status thereof, because counsel for the petitioner has denied that there is any other criminal case registered against him.”

Pursuant thereto, finally an affidavit of the ASP, South Sub Division, Chandigarh, dated 29.07.2021, has been filed, which is ordered to be taken on record.

As per the said affidavit, it is stated that the petitioner and his co-accused were apprehended on 16.05.2021, near the Government Senior Secondary School, Sector 56, Chandigarh, with the mobile phone as is alleged to have been snatched from the complainant having been recovered from the pocket of his co-accused Jai Kumar, with the IMEI number of that phone having duly tallied with the mobile phone of the complainant.

It has further been stated that upon the disclosure statement of the petitioner, who was identified by the complainant, a Hero Honda Motorcycle was recovered from the house of Jai Kumar (as is alleged to have been used in the commission of the offence), with Mr. Punchhi, learned PP, UT, Chandigarh, pointing out that the said vehicle stands registered in the name of the father of Jai Kumar (i.e. Sant Kumar).

Learned counsel for the petitioner, firstly, reiterates that the petitioner was never actually apprehended with Jai Kumar, but was arrested from District Yamunanagar (Haryana) and further, that the complainant could not have actually identified the petitioner in the absence of a test identification parade, he having stated that the persons who had snatched his mobile phone had come from behind on the motorcycle.

Without making any comment on the actual merits of the case, looking at the fact that, as per the affidavit, it is also being now clarified by the ASP, with an apology tendered, that actually there is no other criminal case registered against the petitioner and the custody certificate was incorrect to that effect, because the case that stands registered is against the brother of the petitioner, the petition is allowed and the petitioner is ordered to be admitted to bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

Obviously, if the petitioner has anything to say with regard to him having been arrested from Yamunanagar and not at the spot where it is disclosed, he would avail of his remedy to initiate any appropriate proceedings before the trial court, including summoning of telephone call detail records etc., which would be considered wholly on the merits thereof by that court.

July 30, 2021

dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO