

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33865-2021

DATE OF DECISION: OCTOBER 11, 2021

JITENDER

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. R.P. DAARIA, ADVOCATE FOR THE PETITIONER.
KANWAR SANJIV KUMAR, AAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.458 dated 11.9.2020, under Section 380, 457 IPC (Section 120-B IPC added later on), Police Station Quilla, District Panipat. The petitioner is in custody since his arrest on 19.1.2021.

The allegations contained in the FIR as noticed by the Addl.Sessions Judge, Panipat, in the order dated 3.8.2021, are as under:-

“Brief facts of the case relevant for the purpose of disposal of this application are that on 11.09.2020, a written complaint was submitted by complainant Aman Batra alleging therein that on the previous night, he was sleeping in his house along with his father. One room of the house was locked. Some thieves had broken open the window of the said room and had stolen gold weighing 30-35 tolas and cash amount of Rs.6 lacs kept therein and had fled. He prayed for taking penal action against the culprits. On this complaint, a case under Sections 380 and 457 of IPC was registered. Investigation proceedings were initiated. During investigation,

accused Jitender and Sunny, who were arrested in case FIR No.23 dated 14.01.2021 registered under Sections 380, 457 read with Section 120-B and 413 of IPC suffered disclosure statements admitting their involvement in this case. On the basis of the same, they were joined into investigation of this case on 19.01.2021 and were formally arrested. Offences under Sections 413 and 120-B of IPC were added. The accused were interrogated and suffered disclosure statements admitting their involvement in the subject crime. Accused Jitender retracted from his previous disclosure statement and suffered another disclosure statement to the effect that he had sold the stolen jewellery to Dharampal Sehgal, Chander Kumar Sehgal and Surinder sons of Dharampal Sehgal, who were having jewellery shop near Kalandar Chowk, Panipat area and had received a total sum of Rs.15 lacs. Out of the said amount, he himself and co-accused Sunny had purchased a Scoda car bearing registration no.HR06AC-3107 for a sum of Rs.3 lacs and the remaining amount of Rs.12 lacs was shared by them in equal shares, out of which he had spent an amount of Rs.2 lacs. On 19.01.2021, accused Sunny also retracted from his previous disclosure statement and suffered another disclosure statement disclosing that he had given the stolen jewellery to applicant/accused Jitender for sale, which was sold by him for a sum of Rs.15 lacs. He stated that he could get recovered the remaining amount of Rs.4 lacs kept in his house. On the basis of their disclosure statements, accused identified the place of occurrence and accused Dinanath was arrested on 20.01.2021. He was interrogated and suffered disclosure statement. However, he retracted from the same on 21.01.2021 and suffered another disclosure statement to the effect that he knew accused Sunny, who was residing

in his neighbourhood and was indulged in several cases of theft. He submitted that his business had been shut down due to lock-down. Co-accused Sunny had offered him to keep money and jewellery which he used to get by committing theft in the city. It was agreed between them that accused Sunny would be selling stolen jewellery in a phased manner and would keep on depositing the money received from the same with accused Dinanath and he would be receiving 20% commission for the same. Accused Dinanath further disclosed that on 12.09.2020, accused Sunny had come to his shop and while giving him cash amount of Rs.4,50,000/-, he had disclosed that he had committed theft of jewellery and money from the house of Veerji Mithai Wala and told him to keep the cash amount of Rs.4,50,000/-. He disclosed that cash amount of Rs.1 lac had been taken by accused Sunny from him whereas an amount of Rs.1 lac had been spent by him and he could get the remaining amount of Rs.2 lacs recovered. In pursuance of their respective disclosure statements, accused Jitender got recovered Scoda car and cash amount of Rs.4 lacs, accused Sunny got recovered cash amount of Rs.4 lacs and accused Dinanath got recovered cash amount of Rs.2 lacs. Subsequently, offences under Sections 411 read with Section 120-B of IPC were added against applicant accused Jitender alias Sonu. After completion of investigation and usual formalities, report under Section 173 of Cr.P.C. was prepared and the same is to be submitted to the court of learned Illaqa Magistrate after checking.”

Learned counsel for the petitioner has argued that the alleged theft took place on the intervening night of 10/11.9.2020, but the petitioner was arrested on 19.1.2021, on his alleged disclosure statement when he was

already in custody in another case FIR No.23 dated 14.1.2021, under Section 457, 380, 413, 120-B IPC, Police Station Quilla Panipat. He submits that the petitioner has been falsely implicated in the present case. He has further submitted that the investigation of the case is complete, therefore, the petitioner be released on regular bail.

On the other hand, learned counsel for the State assisted by ASI Satish Kumar has opposed the aforesaid prayer on the ground that the petitioner is involved in two other cases of similar nature. However, it is not disputed that the challan stands filed and the charges have been framed on 9.5.2021.

Considering the above background, as well as the fact that though charges have also been framed, but out of total 11 prosecution witnesses, none has been examined so far, therefore, further detention of the petitioner behind the bars may not be necessary for any useful purpose who is presently confined in judicial custody after his arrest on 19.1.2021, as the trial of the case is likely to consume considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

October 11, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No