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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.50547 of 2021 (O&M)

Date of decision: 09.12.2021

Tashim @ Pehlwan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.244 dated 10.06.2020, for offence punishable under Sections 201, 427, 457, 380 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Civil Line, District Jind.

Counsel for the petitioner has relied upon the order dated 02.09.2021 passed in CRM-M No.8496 of 2021 vide which the co-accused of the petitioner namely Samshu was granted the concession of regular bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submitted that as per the allegations in the FIR which was registered at the instance of Bhupinder Singh that a theft on ATM machine was committed on the intervening night of 09.06.2020/10.06.2020 and an amount of Rs.21,00,000/- has been taken away. Learned counsel submitted that the petitioner was not named in the FIR and his name has been surfaced only on the disclosure statement of coaccused. The petitioner is in custody since 8.9.2020 and the investigation is complete.

Status report by way of affidavit of Deputy Superintendent of Police, Julana, District Jind, has been filed submitting that after co-accused were arrested in this case, their disclosure statements were recorded. It is further stated that the petitioner was lodged in judicial custody in another case, was taken on production warrant and joined in the investigation of the case and in furtherance of disclosure statement got recovered a sum of Rs.1,20,000/-. It is also submitted that the petitioner is involved in another FIR registered at Police Station Sadar Bazar Saharanpur.

After hearing learned counsel for the parties and considering the fact that the petitioner is in custody for the last one year; he was nominated as an accused on the disclosure statement of the co-accused; trial is yet to start and it will take some time due to COVID-19 pandemic in the country, this petition is allowed and the petitioner is directed to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has argued that the name of the petitioner surfaced in the disclosure statement of the co-accused and the recovery of Rs.60,000/- was effected from the petitioner. It is also submitted that the petitioner is in custody for the last 01 year, 01 month and 26 days; the challan stands presented and it will take some time in conclusion of the trial.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that as per the Custody Certificate, though, the petitioner is involved in some other case, however, considering the fact that the petitioner was nominated on the basis of the disclosure statement of the co-accused; he is in custody for the last 01 year, 01

month and 26 days; the investigation is complete; till date no PW has been examined as charges are yet to be framed and also in view of the fact that the co-accused of the petitioner is already released on bail; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

09.12.2021
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No