

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

CRM-M-1130 of 2022 (O&M)

DECIDED ON: 5th May, 2022

Harmeet Singh @ Heera

....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Fateh Singh Bhullar, Advocate for petitioner.

Mr. Sandeep Kumar, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 439 Cr.P.C. is filed seeking regular bail in case of FIR No.69 dated 11.4.2021, under Sections 379-B(2), 323, 34 IPC, 1860, registered at Police Station Majitha Road Amritsar, District Amritsar.

Learned counsel for the petitioner seeks parity with co-accused Rachpal Singh @ Pal, who was granted regular bail vide order dated 15.12.2021 in CRM-M-33559-2021 and following order was passed:

"Mr. Anshul Gupta, Advocate has appeared on behalf of the petitioner and has filed a Vakalatnama which is taken on record.

By this petition, the petitioner seeks the concession of 'regular bail' under the provision of Section 439 Cr.P.C., upon FIR No.69, dated 11.04.2021, having been registered at Police Station Majitha Road, District Amritsar, alleging therein the commission of offences punishable under the provisions of Sections 379-B(2), 323, 34 of the IPC.

On 27.10.2021 the following order was recorded by this Court:-

“Learned counsel for the petitioner submits that FIR no.35 dated 11.4.2021 also having been registered at Police Station Bhikhiwind, District Tarn Taran, in respect of recovery of the car allegedly stolen from the complainant in the FIR in question in the present case, i.e. in FIR no.69 dated 11.4.2021

(registered at Police Station Majitha Road, Amritsar), and the petitioner already having been admitted to bail under the provisions of Section 167(2) of the Cr.P.C. in the context of that FIR registered, two FIRs essentially on the same cause of action would not be maintainable and therefore the petitioner deserves to be admitted to bail in any case in the context of the FIR registered at Amritsar.

It is to be noticed by this court that the FIR with regard to the theft/snatching of the car (alleging therein the commission of offences punishable under Sections 379-B(2)/323/34 of the IPC), was registered at 12.20 pm on 11.4.2021 at the instance of the person whose car was snatched away from him (as per the allegation).

The FIR registered at Police Station Bhikhiwind, i.e. FIR no.35, was registered on the evening of the same day, i.e. at 7.40 pm, upon the said car having been recovered (as per that FIR), upon a check point set up by the police of that police station (upon information received as regards the snatching of the car).

Hence, FIR no.35 registered at Police Station Bhikhiwind, is obviously the second FIR, with the FIR relating to the actual stealing of the car being the one registered at Police Station Majitha Road, Amritsar, at 12.20 pm in the afternoon.

Hence, at this stage at least in my opinion, if at all there is any non-maintainability of one FIR, it is the second FIR and not the first; and simply therefore because the petitioner has been admitted to bail under the provisions of Section 167(2) of the Cr.P.C. in that FIR, that would not entitle him to that concession as regards the 'main FIR' registered earlier, at Amritsar.

Be that as it may, a gazetted officer shall to file a reply to the petition, with learned for the petitioner to address arguments in terms of any law that he wishes to cite on the next date of hearing, on the issue raised by this court hereinabove.

Adjourned to 15.12.2021.”

Today though an affidavit dated 10.12.2021 has been filed by the learned State counsel, executed by the ACP, North, Amritsar (which is ordered to be taken on record), however it has not been made very clear in the affidavit as to how a second FIR (registered at Police Station Bhikhiwind) would be maintainable.

Be that as it may, this being a petition by which the petitioner seeks to be admitted to bail under the provisions of Section 439 Cr. P.C., and admittedly the report under Section 173 Cr.P.C. has already been submitted to the competent Court, therefore, with the petitioner having been now in custody for the last eight months, without making any comment on the actual merits of the case, 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.

Learned State counsel opposes the prayer and tries to distinguish the parity with co-accused so far as granted of bail is concerned and submits that the petitioner is involved in four more cases.

The involvement of petitioner in four more cases in itself is no ground to deprive his personal liberty, more over investigation is complete and co-accused with similar allegations was granted bail, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

5th May, 2022
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>