

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-6995-2022
Decided on : 23.02.2022

Gurcharan Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Jagjit Singh Gill, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 298 dated 23.12.2021 under Section 379-A of the Indian Penal Code, 1860 registered at Police Station Nathusarai Chopta, District Sirsa.

Learned counsel for the petitioner has submitted that the petitioner is an auto driver and has never been involved in any other case. It is submitted that the complainant had hired the auto of the petitioner and there was a dispute at the time of making of the payment, thus, the present FIR has been registered and the petitioner has been falsely implicated in the present case. It is further submitted that as per the prosecution version, the petitioner had come out of the auto on the pretext of urinating when the complainant also came out of the auto in order to give money to the petitioner and it is then that the petitioner has

been alleged to have snatched the mobile phone of the complainant. It is submitted that the said version is highly doubtful inasmuch as it is highly unlikely that the petitioner would have snatched the said mobile phone and then re-entered and started the auto and then would have been able to run away, moreso, when the petitioner has not committed any such act in the past and when the petitioner is earning his livelihood by driving his auto. He has further submitted that he has been in custody since 24.12.2021 and nothing more is to be recovered from him and thus, the custodial interrogation of the petitioner is not required.

Learned State counsel has opposed the present application for regular bail and has submitted that the investigation in the present case is not complete and even the third person, who has been stated to be in the auto, has not been arrested as yet.

This Court has heard learned counsel for the parties and has perused the paperbook.

The petitioner has been named as an accused in the FIR itself. Even as per the prosecution case, it is the complainant who had hired the auto of present petitioner, bearing No. HR-57A-0652, for an amount of Rs.300/-. The petitioner, thus, even as per the prosecution case, earns his means of livelihood by driving the auto. The petitioner is stated to be not involved in any other case and is in custody since 24.12.2021 and no further recovery is to be effected from him. The argument of learned counsel for the petitioner to the effect that it is

highly debatable as to whether the petitioner could have possibly snatched the mobile phone of the complainant and then run back to his auto and start the auto and run away, as has been alleged in the FIR, moreso, when the petitioner has never indulged in any criminal act and also the averment that the present FIR has been registered on account of a dispute that arose at the time of making the payment, cannot be outrightly brushed aside.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to his not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

It is made clear, in case, the petitioner threatens or influences any witness, it would be open to the State to move an application for cancellation of the present regular bail granted to the petitioner.

(VIKAS BAHL)
JUDGE

23.02.2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No