

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(215)

CRM-M-7839-2022

Date of decision: - 19.04.2022

Jatinder Singh Cheema

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

At the outset, learned State counsel, on instructions from ASI Onkar Singh, has pointed out that in addition to the Sections, which have been mentioned in the head note and prayer clause of the present petition, Section 201 IPC has also been added subsequently on 01.03.2022.

Learned counsel for the petitioner has orally prayed that Section 201 IPC be added in the head note as well as in the prayer clause of the present petition.

In view of the oral request made by learned counsel for the petitioner, the Registry is directed to add Section 201 IPC in the head note as well as in the prayer clause of the present petition.

This is a first bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.222 dated 21.10.2018, registered under Section 379-B IPC (Sections 201 and 411 IPC added later on), at Police Station Model Town, District Hoshiarpur.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has been falsely implicated, which is apparent from the fact that the petitioner along with other persons has been named in the FIR itself, whereas, the allegations levelled in the present FIR are under Section 379-B IPC. It is further submitted that an amount of Rs.17,000/- is stated to have been taken from four persons by three accused persons, including, the present petitioner. It is submitted that the other two co-accused persons were tried and have been acquitted by the Sessions Judge, Hoshiarpur, vide judgment dated 14.09.2021 (Annexure P-2), in which, it has been observed that even the recovery of money from the said two co-accused was meaningless, inasmuch as, there was no special identification marks on the currency notes so as to show that the money which was allegedly taken from the complainant were the ones which were recovered from the said accused persons. The trial Court had also considered the fact that there was an unexplained delay of two days in registration of the present FIR. It is submitted that the case of the petitioner is also on the same footing as the other two persons. It is also submitted that the petitioner has been in custody since 27.01.2022 and there are total 11 prosecution witnesses, none of whom have been examined and thus, the trial is likely to take time. It is further submitted that as per the the supplementary challan, which has been presented

against the present petitioner, no recovery has been effected from the petitioner and he is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner had been declared a proclaimed offender and it is only on 27.01.2022, the petitioner was arrested by the police. It is further submitted that on the said ground alone, the petitioner does not deserve the concession of regular bail, however, other factual aspects have not been disputed by the learned State counsel.

This Court has heard learned counsel for the parties and gone through the paper-book.

As per the allegations in the FIR, there were three accused persons including, the present petitioner, who had snatched Rs.17,000/- from four persons. The other two co-accused were tried and have been acquitted by the learned Sessions Judge, Hoshiarpur, vide judgment dated 14.09.2021. In the said judgment, it has been specifically observed by the Court that there is an unexplained delay of two days in the registration of the present FIR, more so, when as per the case of the prosecution, accused persons were known to the complainant and also since the police station was at a distance of one kilometer, yet, the present FIR was registered on 21.10.2018, whereas, the alleged occurrence had taken place on 19.10.2018. It had been further observed that even the recovery of money effected from the said co-accused persons could not be related to the money which had been allegedly snatched from the complainant, as there was no special identification mark on the currency notes. Although, the

petitioner was declared proclaimed offender, but he had been arrested on 27.01.2022. Moreover, the challan has already been presented against the present petitioner and no recovery has been effected from him and the petitioner is stated to be not involved in any other case. Further, there are total 11 prosecution witnesses, none of whom have been examined and thus, the trial is likely to take time.

Keeping in view the above-said 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, subject to the petitioner depositing Rs.12,000/- before the said concerned Court/ Duty Magistrate within a period of one month from today and subject to him not being required in any other case.

The said concerned Court is directed to put the said amount of Rs.12,000/- in a fixed deposit and the same would be released to the party which finally succeeds in the matter after completion of trial. In case, the petitioner is acquitted in the trial, then the said amount of Rs.12,000/- along with interest, would be released to the petitioner and in case, the petitioner is convicted, then the said amount of Rs.12,000/- along with interest, would be distributed among the persons, in the same proportion, as money was allegedly taken from them.

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

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 petition.

April 19, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes