

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216-A

CRM-M-16799-2022
Decided on :28.04.2022

Suraj

. . . Petitioner

Versus

State of UT, Chandigarh.

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Pyare Lal Sinduria, Advocate
for the petitioner.

Mr. Simsi Dhir Malhotra, APP, UT, Chandigarh.

VIKAS BAHL, J. (Oral)

The present petitioner has filed two petitions for the same relief for grant of regular bail in FIR No. 174 dated 29.06.2021 under Sections 379-A and 411 of the Indian Penal Code, 1860 registered at Police Station Sector-39, Chandigarh. Apart from the present petition, the other petition bearing No. CRM-M-4091-2022 has been filed. In the said petition, vide an order of even date, this Court has been pleased to pass the following order:-

“The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 174 dated 29.06.2021 under Section 379-A of the Indian Penal Code, 1860 registered at Police Station Sector-39, Chandigarh.

Learned counsel for the petitioner has very fairly submitted that after the filing of the present petition, another CRM-M-16799-2022 has been filed by the same petitioner through another counsel and the petitioner may be permitted to withdraw the present petition with liberty to the petitioner to pursue CRM-M-16799-2022

and the said petition be treated as the second petition for regular bail.

In view of the above, present petition is dismissed as withdrawn.

However, it is made clear that it would be open to the petitioner to pursue CRM-M-16799-2022 which would be treated as the second petition under Section 439 Cr.P.C. as the earlier petition has already been withdrawn on 22.09.2021.

All the pending miscellaneous applications, if any, stand disposed of, in view of the abovesaid order.”

The present petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in the abovesaid FIR has been heard on merits.

Learned counsel for the petitioner has submitted that in the present case, initially the complainant had got recorded a DDR No. 26 dated 25.06.2021 (Annexure P-2) in which it had not been stated by the complainant that the mobile phone had been snatched by some person and rather it had been submitted that the mobile phone had been misplaced. It is further submitted that after a period of 4 days, the present FIR No. 174 dated 29.06.2021 had been registered on the allegation that the said mobile phone had been snatched. It is contended that the petitioner had not been named in the FIR and the version given in the FIR is contrary to the version given in the DDR. It is further contended that the petitioner is not involved in any other case and he has been in custody since 13.07.2021 and there

are as many as 12 witnesses, none of whom have been examined as yet and even the charges have not been framed and thus, the trial is likely to take time to conclude. It is argued that the earlier application was withdrawn on 22.09.2021 and even thereafter, more than 7 months have elapsed and yet no progress has been made in the present case. It is further argued that the factum with respect to the DDR No. 26 dated 25.06.2021 was not brought to the notice of this Court in the first round of litigation. It is also submitted that in the present case, the alleged recovery has already been effected and thus, no purpose would be served by keeping the petitioner in custody any further.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and on instructions from ASI Kiran Pal, has submitted that the recovery of mobile phone has been effected from the petitioner. The other facts as stated by the learned counsel for the petitioner are not opposed by learned State counsel.

This Court has heard learned counsel for the parties and has perused the paperbook. A perusal of DDR No. 26 dated 25.06.2021 would show that as per the complaint made by the complainant Raj Singh that his mobile phone has been misplaced and it is after a period of 4 days that the present FIR has been registered with the allegation that his mobile phone was snatched and thus, the said allegations are contrary to the allegations made in the DDR. The petitioner is stated to be not involved in any other case and has been in custody since 13.07.2021 and the challan in the present case has already been

presented and thus, the investigation is complete and the recovery has already been effected and no other recovery is to be effected from the petitioner and there are as many as 12 witnesses, out of whom none have been examined as yet and thus, the trial is likely to take time to conclude. The earlier bail application was withdrawn on 22.09.2021 and even thereafter, more than 7 months have been elapsed and no progress has been made in the trial inasmuch as, even charges have not been framed as yet. The said facts are substantial subsequent events so as to entitle the petitioner to file the present second petition for regular bail.

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.

(VIKAS BAHL)
JUDGE

April 28th 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No