

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-15911-2022
Date of decision : 25.04.2022

Chandan Kumar

... Petitioner

Versus

State of UT, Chandigarh

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.A.P.Kaushal, Advocate
for the petitioner.

Mr.Kuldeep Tiwari, APP for U.T. Chandigarh.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.111 dated 15.09.2021 registered under Sections 393 IPC (Section 398 IPC added later on) at Police Station Mauli Jagran, Chandigarh.

Learned counsel for the petitioner has submitted that in the present case, neither any injury has been caused to the complainant, nor anything has been snatched from the complainant. It is submitted that the story put forth in the FIR is highly improbable and it has been stated in the FIR that the complainant was able to over power the petitioner and was also able to call 112 and the police also came to the spot thereafter, and arrested the petitioner at the spot. It is also submitted that it is highly unlikely that a person who had approached with an intention to snatch, would keep waiting and would afford the complainant an opportunity to call up the police and

then could be kept held till the police arrived. It is further submitted that the petitioner is not involved in any other case and has been in custody since 15.09.2021 and in the present case, out of 9 prosecution witnesses, only 1 witness has been examined. Reference has also been made to zimni orders dated 11.02.2022, 17.03.2022 as well as 12.04.2022 to show that inspite of the fact that the complainant Pawan Kumar was aware of the said proceedings and had also been served through Whatsapp, yet the said witness has not appeared on the above said three dates and evenailable warrants have been issued against the said Pawan Kumar. It is stated that the marriage of the brother of the petitioner is fixed for 20.05.2022 and father of the petitioner is bed ridden.

Learned counsel for the U.T. has opposed the present petition for regular bail and has submitted that in the present case, the petitioner had shown a knife to the complainant and wanted to snatch his belongings but it is only because the complainant had managed to apprehend the petitioner that the complainant's belongings were saved from being snatched. It is further submitted that in the present case, the complainant has not been examined as yet and thus, there is a possibility that the petitioner might threaten / influence him.

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

Neither any injury has been caused in the present case, nor anything has been snatched from the complainant. The petitioner is stated to be in custody since 15.09.2021 and out of 9 prosecution witnesses, only 1 witness has been examined. The petitioner is stated to be not involved in any other case. A perusal of the zimni orders moreso, order dated

11.02.2022, 17.03.2022 and 12.04.2022 would show that inspite of the fact that the complainant Pawan Kumar has been served through Whatsapp, but he has not been appearing to give his evidence and even bailable warrants have been issued against him. The argument of learned counsel for the petitioner to the effect that the version given in the FIR is highly unlikely inasmuch as the petitioner would not have waited for the complainant to have called up 112 and for the police to arrive, is an issue to be decided during the course of trial.

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 bonds with local surety to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the U.T. Chandigarh to move an application for cancellation of bail granted to the petitioner.

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.

(VIKAS BAHL)
JUDGE

April 25, 2022
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No