

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

225

CRM-M-16158-2022

Date of Decision : July 11, 2022

ASHOK KUMAR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Sandeep Kumar, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.327 dated 16.11.2021 under Sections 307, 379-B, 34 IPC and Section 25 of Arms Act, subsequently offences under Sections 379-B, 34 IPC were deleted and offences under Sections 394, 395-B, 411 IPC (Section 397 IPC added lateron) were added, registered at Police Station Focal Point, District Ludhiana.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 7.12.2021 and after investigation of the case, the challan was presented before the competent Court. He submitted that as per the allegations a theft was committed qua the complainant in which the wife and daughter of the complainant were also injured. He further submitted that the role attributable to the

petitioner was only to the extent that he received the stolen properties of 19 mobile phones from the persons, who had committed the theft. He submitted that even as per the prosecution the petitioner was not part of the gang which had allegedly committed the theft/robbery. He further submitted that the petitioner is also involved in one more case under Section 380 IPC in which he is already on bail and in that case also he was falsely implicated. He submitted that the petitioner is running the shop of mobile and the alleged recovery which is shown against the petitioner was of brand new mobile phones and since he is already dealing with the new mobiles, the present case was planted upon the petitioner. He further submitted that be that as it may, the only role attributable to the petitioner was with regard to receiving of the stolen property and, therefore, he may be considered for the grant of regular bail. He submitted that since the investigation of the case is already complete and no further recovery is to be effected from the petitioner, no useful purpose will be served in case the further custody of the petitioner is continued. He further submitted that the other co-accused, namely, Ashok Masih has been granted regular bail by this Court and he is at parity with the petitioner since in that case also there was allegation against the aforesaid co-accused of receiving the stolen property of LCD.

On the other hand, the learned State counsel has stated that it is correct that the petitioner is in custody from 7.12.2021 and it is also correct that the investigation of the case has been completed and the challan has been presented before the competent Court. He further submitted that as per the allegations the petitioner was not part of the

gang who had committed theft/robbery of alleged 19 mobiles and the same were recovered from the petitioner and, therefore, has opposed the grant of bail to the petitioner.

I have heard the learned counsels for the parties.

The petitioner is in custody from 7.12.2021 and the investigation of the case has been completed and as per the learned counsel for the parties no further recovery is to be effected from the petitioner. The FIR was lodged on the basis of a complaint made by the complainant that when he alongwith his wife and daughter was coming out of the shop then their bag alongwith various articles were snatched away by some unknown persons. As per the prosecution only role assigned to the petitioner is that he had received the stolen properties comprising of 19 mobiles whereas the argument raised by the learned counsel for the petitioner is that he is a dealer of mobile phones and is dealing with new mobile phones and, therefore, no role can be attributable to the petitioner with regard to the receiving of stolen properties. The other co-accused, namely, Ashok Masih has been granted regular bail by this Court, who is at parity with the petitioner. Although the petitioner is involved in one more case under Section 380 IPC but as per the learned counsel for the parties, the petitioner is already on bail in that case as well. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, in view of the aforesaid facts and circumstances of the present case, this Court deems it fit and proper to grant bail to the

petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

July 11, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No