

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CRM-M-19678 of 2022
Date of Decision:11.07.2022**

Abhi

---Petitioner

versus

State of Punjab

---Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. G.S.Bajwa, Advocate
for the petitioner

Mr. Karanbir Singh, AAG, Punjab

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 by the petitioner for seeking concession of regular bail in case bearing FIR No. 361 dated 29.12.2020 registered under Sections 379-B and 411 of the Indian Penal Code, 1860 at Police Station, Maqboolpura, District Police Commissionerate, Amritsar.

2. Learned counsel appearing on behalf of the petitioner has contended that FIR in question had been registered at the instance of one Darshan Singh son of Harnam Singh who had alleged that he had gone to the vegetable market, Vallah to purchase vegetables and that he had driven his auto to the side way to allow to the car to cross. The three wheeler of the complainant was forcibly stopped by the occupants of the car and that 03 persons stepped out and two of them came towards son of the complainant and pointed a pistol towards his son. They took away a sum of Rs.9,000/- from the right pocket of his son along the the mobile phone Lava carrying a sim card and had also decamped with the car belonging to the complainant.

He submits that initially one Akashdeep Singh alias Hardev Singh was arrested in the said case and that in his confessional statement, the name of the petitioner pointed out. It is contended that the car was left by the accused and he came to know later that the same belongs to former DSP of Punjab Police out of an amount of Rs.9,000/- which was taken from the son of the complainant. No recovery was effected. It is alleged that recovery in question cannot be connected to the commission of offence and further that the petitioner has been in custody since 28.04.2021 and has already gone more than one year of actual sentence in the present case. He further submits that the similarly placed accused has already been granted concession of bail vide order dated 9.5.2022 in CRM-M- 18496 of 2022.

Learned State counsel has opposed the prayer made by the learned counsel for the petitioner and has pointed out that there are 03 other cases of similar nature registered against the petitioner. It is however not disputed that the petitioner has already undergone an actual custody of more than a year and that charge has not been framed so far and that no recovery has been effected from the petitioner and the co-accused has already been granted bail.

I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

The afore-mentioned facts have also been taken note of along with the fact that despite an actual custody of more than a year, even the charge is not framed against the petitioner. The probative value of the evidence collected against the petitioner shall be received by the trial Court after evidence is recorded. There is no further recovery to be effected from the petitioner and his continued incarceration in Jail is not likely to advance

any interest of justice.

The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

11.07.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No