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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.22991 of 2022 (O&M)

Date of decision: 16.08.2022

Tasim Pahalwan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.92 dated 20.02.2020, for offence punishable under Section 395 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Shahabad, District Kurukshetra.

The earlier one was dismissed as withdrawn on 24.03.2022.

Counsel for the petitioner has submitted that the new ground for filing this petition is that the petitioner is in custody for the last about 01 year, 11 months and 03 days and the complainant/victim Mange Ram has sworn an affidavit that the petitioner is not the person, who has stolen his car.

Brief facts of the case are that Mange Ram got the aforesaid FIR registered that he is a driver on vehicle No.HR67-B-6318

of Bharat Benz, which belongs to one Sanjay. On the date of incident, he was coming from Mandi Gobindgarh to Samalkha and after unloading the goods, he was returning back to Mandi Gobindgarh and when he reached Ambala, he heard some noise from the rear tyre of his vehicle and after parking the same, he started checking the vehicle and in the meantime, one Bolero Pick-up vehicle came from the back side in which 6-7 persons were sitting and due to fear, the complainant ran away and 02 persons got into his vehicle and the remaining boys sat in the Bolero vehicle and they sped away with the vehicle of the complainant.

Counsel for the petitioner has further submitted that the petitioner was neither named in the FIR nor any overt act is attributed to him by the victim. It is further argued that after the arrest of the co-accused Aas Mohammad, the name of the petitioner surfaced in his disclosure statement. It is also argued that now the complainant has sworn an affidavit that the petitioner is not the person, who has taken away his car forcibly on the date of incident. It is also submitted that even Aas Mohammad, Hukumdeen and Farman, have already been granted bail by the trial Court itself.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail on the ground that the petitioner is involved in number of other cases also as detailed in the petition itself but could not dispute the fact that the complainant has given an affidavit that the petitioner is not the person, who has taken away his car on the date of incident. It is also submitted that out of 15 PWs, only 03 PWs have been examined.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year 11 months and 03 days; the co-accused of the petitioner are already released on bail by the trial Court; the custodial interrogation of the petitioner is not required; out of 15 PWs only 03 PWs have been examined, so far and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

16.08.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No