

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CRM-M-24979 of 2022
Date of Decision:01.08.2022**

Rajbir Singh @ Raja

---Petitioner

versus

State of Punjab

---Respondent

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

Present: Mr. Ajay Kumar, Advocate for
Mr. Rishu Mahajan, 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. 166 dated 09.06.2021 under Sections 379-B, 411 and 201 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') registered at Police Station Ranjit Avenue, District Amritsar City.

The FIR in the instant case was registered on the Statement of Varinder Singh son of Jagdish Singh, which reads thus:-

“To the SHO Police Station Ranjit Avenue Amritsar,. Sir, It is requested that I Varinder Singh son of Jagdish Singh, resident of House No. 383-E Block Ranjit Avenue Amritsar, on 08.06.2021 at about 9:25 PM, left my house for evening walk and I went towards Ajnala Road. At around 9:45 PM, when I reached near a block vacant ground there came two youths from behind riding a motorcycle. I was talking on my mobile phone mark Motorola Company bearing SIM No. 9888801158 of Vodaphone Company and the other SIM No. 95925-71158

of Idea Company IMEI No. 354144072540113-354144072540121. I was talking to someone on my mobile phone then the pillion rider alighted from the motorcycle and he forcibly snatched my phone and they fled. Till now I was searching the same. I could not trace my mobile phone hence I have come to you, a legal action be taken against my application.”

Learned counsel for the petitioner contends that the investigation in the case is already complete and that the recovery has already been effected. Besides, despite the petitioner having undergone actual custody of 11 months and 23 days, no prosecution witness has been examined so far. He further submits that there was no chance to implicate the present petitioner or to identify him. It also remains to be established as to whether the petitioner was sitting on the pillion seat or he was driving the motorcycle.

Per contra, learned State counsel submits that recovery of mobile phone has been effected from the petitioner and as such, it cannot be said that the petitioner has no participation in the commission of offence. He further contends that there are other FIRs bearing Nos. 133 and 173 registered against the petitioner for commission of offence under Sections 379-B and 411 IPC. He, thus, submits that the petitioner suffers from criminal antecedents. He, however, does not controvert the fact that the prosecution evidence has not commenced and that the petitioner has undergone actual custody of 11 months and 23 days in the instant case.

Adverting to the aforesaid submissions, learned counsel appearing for the petitioner contends that mere recovery of mobile phone from the petitioner does not attract Section 379-B IPC rather it may attract

Section 411 IPC.

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

Taking into consideration the circumstances noticed above and the fact that the investigation in the case is complete, the trial has not commenced as yet despite the petitioner having undergone actual custody of 11 months and 23 days as well as the age of the petitioner, 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

01.08.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No