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

CRM-M No.26346 of 2022 (O&M)

Date of decision: 04.07.2022

Swaranjeet Singh @ Seeta

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Sekhon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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.194 dated 19.12.2016, for offence punishable under Sections 458, 392 of the Indian Penal Code, 1860 (in short 'IPC') (Section 397 IPC added later) registered at Police Station Baghapurana, District Moga.

Counsel for the petitioner has argued that the new ground for filing this petition is that now the statement of PW-1 Chamkaur Singh, who had nominated the petitioner in the present FIR, has been recorded and he has not supported the prosecution version and the victim Sukhmander Singh is residing abroad and there is no likelihood of recording his statement in the near future.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of Sukhmander Singh

that he is a citizen of Canada and he had come to India along with his wife on 09.12.2016. On 18.12.2016, after having dinner, he was sleeping in his room when he heard some noise and in the meantime, the door of his room was forcibly pushed and 04 persons with muffled faces came inside the room and demanded everything in his possession. The petitioner was pushed to his bed and by opening the Almirah, they have taken away cash, gold articles and Canadian dollars. Later on, the police recorded the statement of Chamkaur Singh and on his statement, the petitioner was nominated in the case. It is further submitted that the statement of PW-1 Chamkaur Singh has been recorded and he flatly refused to corroborate the version of the prosecution by saying that he do not know anything about the case and he has appeared in the Court only in compliance of the summons. This witness was declared hostile and in his cross-examination by the Public Prosecutor, he denied the suggestion that he has effected the compromise and even denied that he has made a statement Mark A under Section 161 Cr.P.C., to the police.

Counsel for the petitioner has also submitted that since the person, who nominated the petitioner in the case, has not supported the prosecution version, there is no other evidence against the petitioner as the FIR was registered against unknown person and Sukhmander Singh is residing in Canada and there is no possibility for him to come to India and make deposition in the Court as number of dates have been taken by the prosecution for this purpose. Lastly, it is submitted that the petitioner is in custody for the last 01 year, 10 months and 15 days and he is involved in 04 other FIRs, however, he is on bail in the said cases.

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 04 other FIRs.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 10 months and 15 days; the complainant turned hostile; the custodial interrogation of the petitioner is not required 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/Illaq 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

04.07.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No