**In the High Court of Punjab and Haryana at Chandigarh**

**CRM-M No. 38674 of 2021**
**Date of Decision: 16.3.2022**

Ravi Kumar .....Petitioner

Versus

State of Punjab .....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

Present: Mr. Sudesh Sahi, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

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**SURESHWAR THAKUR, J. (ORAL)**

(Through video conferencing)

1. In FIR bearing No. 58 of 9.3.2021, offences constituted under Sections 379-B, 411 and, later on added Section 201 IPC, are embodied. The FIR (supra) is lodged at Police Station Sadar Nabha, District Patiala.

2. However, the learned State counsel submits, that since the sale price of the scrap, as sold to the accused concerned, did not come, to be recovered, at the instance of the petitioner-bail applicant, to the investigating officer concerned, thereupon an offence constituted under Section 201 IPC, has been added in the FIR (supra). Though, in the head note of the petition, the afore offence is not mentioned, yet on the oral prayer of the learned counsel for the petitioner, the afore offence is permitted to be added, in the head note of the petition, in the hands, and, writings of the learned counsel for the petitioner.

3. The imputation of incriminatory participation of the bail applicant-petitioner, in the offences, as carried in the FIR (supra), is comprised in his facilitating the commission of offence(s), by the principal offender concerned.

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4. The learned counsel for the petitioner submits, that even if there is any failure on the part of the petitioner-bail applicant, to ensure the recovery of the sale price, to the investigating officer concerned, yet the afore failure does not purvey any leverage to the investigating officer concerned, to draw even against the petitioner-bail applicant, any offence constituted in the provisions of Section 201 IPC. The merit of the afore argument cannot be tested at this stage, as the learned State counsel submits, that a charge is likely to be put against the accused along with the principal accused concerned, with respect to the commission of offences, as carried in the FIR (supra). Therefore, the afore made address can be taken as a defence by the petitioner, through his making cross-examination(s), upon the prosecution witnesses concerned, more specifically upon the investigating officer concerned.

5. Be that as it may, since the learned State counsel, on instructions given to her by ASI Amrik Singh, submits that, after completion of investigations into the FIR (supra), an affirmative report under Section 173 Cr.P.C., has been filed, before the learned Court concerned. Consequently, the afore factum, and, also the factum that the petitioner is in judicial incarceration since 23.7.2021, rather constrains this Court to not prolong the judicial incarceration of the petitioner-bail applicant, as, thereupons his personal liberty would become unnecessarily fettered, and, curtailed.

6. However, the learned State counsel submits, that since the bail applicant-petitioner is a habitual offender, thereupon, in case the facility of bail is granted to him, there is every likelihood of his re-indulging in penal activities.

7. However, the vigour of the afore made submission, of the learned State Counsel, before this Court, can be mitigated, by imposition of stringent conditions, upon the petitioner-bail applicant.

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8. Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is subject to his furnishing personal and surety bonds in the sum of ₹50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance. Further, subject to petitioner-bail applicant making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activites, whereupon, on breach thereof, the order made today, shall become *ipso facto* anulled, and, that, upon, his being forthwith arrested by the investigating officer concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order for his being put to judicial custody.

9. Copy dasti.

**(SURESHWAR THAKUR)**
**JUDGE**

**March 16, 2022**
**Gurpreet**

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

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