

(235) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35522-2022

Date of Decision: 18.08.2022

RAHUL KUMAR

... Petitioner

Versus

STATE OF U.T. CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Dinesh Maurya, Advocate
for the petitioner.

Mr. Ankur Bali, APP, U.T., Chandigarh.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0074 dated 03.05.2022 registered under Sections 380, 457 of the IPC with Police Station Sector 31, Chandigarh.

2. The present FIR came to be registered at the instance of one Gokul Nirwan son of Sh. Phool Singh Nirwan, who stated that he was running a business of wires and instruments at Plot No.40 Industrial Area Phase-II. On 26.04.2022 at about 08.30 PM, he had left after closing his shop. On 27.04.2022 at 10.00 AM, when he opened the shop, he found that someone had broken through the partition of the shop and stolen goods including one inverter, Havel Wires, LED lights and a cash amount of Rs.1,60,000/-

During the course of investigation, the petitioner came to be arrested.

3. The learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The alleged incident took place on 27.04.2022, whereas the FIR came to be registered on 03.05.2022 i.e. after a gap of seven days. This unexplained delay was fatal to the case of the prosecution. He contends that there is no link evidence connecting the petitioner to the commission of the alleged offence and even otherwise, the petitioner has been in custody since 23.05.2022, the investigation stands completed and since none of the 09 prosecution witnesses have been examined so far, the further incarceration of the petitioner is not required. He thus, prays for the grant of regular bail.

4. On the other hand, the learned State counsel contends that the stolen articles had been recovered from the petitioner on 03.05.2022. During the course of investigation, the petitioner had revealed that some cash was lying at Gurugram and when the accused accompanied with the police party went to recover the said goods, taking advantage of the hilly and forest area, he escaped from the custody leading to the registration of another FIR No.137 dated 04.05.2022 registered under Section 224 IPC with Police Station Industrial, Sector 07, Manesar, Gurugram. It was only thereafter, that the petitioner was arrested in the present case from Chandigarh. He thus contends that the conduct of the accused-petitioner also does not entitle him to the grant of regular bail.

5. I have heard the learned counsel for both the parties at length.

6. Admittedly, the petitioner is a first-time offender. The recovery stands effected and the investigation has culminated in a Report under Section 173(2) Cr.P.C. None of the 09 prosecution witnesses have been examined so far and thus, the trial of the present case is not likely to be concluded in the near future. The allegations against the petitioner shall be proved during the course of trial. At this point in time, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rahul Kumar son of Sh. Yogendra Mahto is ordered to be released on bail subject to him furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

18.08.2022

JITESH

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