

CRM-M-36022 of 2022

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

CRM-M-36022 of 2022
Date of decision: 19.12.2022

Bhinder Singh @ Harpinder Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. K.S. Brar, Advocate,
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.95 dated 19.05.2022 under Sections 379, 379B, 411 IPC registered at Police Station City-I, Abohar, District Fazilka.

The present FIR has been registered at the instance of ASI Gurnam Singh on the allegations that on 19.05.2022 complainant alongwith other police officials was present in the area of Octroi Fazilka- Abohar Bye Pass that there he received the secret information that Bhinder Singh (present petitioner) and co-accused, namely, Kuldeep Singh, Harshdeep Singh, Kakku @ Kishi and Ajay Singh were habitual of committing theft of vehicles and snatching mobile phones from various people. It was further informed that on the same day they were present along with stolen

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motorcycle and Activa below the over bridge of railway line, Malout Road near Nirankari Bhawan. Finding the information to be trustworthy, ruqa was prepared on the basis of which present FIR was registered. During the course of investigation, petitioner and co-accused, namely, Kuldeep Singh, Ajay @ Ghanya, Sonu, Richhi have been arrested and from their possession mobile phone, motorcycle and Activa have been recovered.

Learned counsel for the petitioner submits that no offence under Section 379-B IPC is made out in the present case. Learned counsel for the petitioner argues that as per allegations made in the FIR itself, there is nothing mentioned about causing hurt to any one by any of the accused. He further submits that after completion of investigation, challan has been presented and charges have been framed. Petitioner is in custody since 18.06.2022. Learned counsel submits that co-accused of the petitioner, namely, Harshdeep Singh has been granted anticipatory bail by this Court vide order dated 05.09.2022 passed in CRM-M-29268 of 2022 (Harshdeep Singh v. State of Punjab). He submits that petitioner is at parity with co-accused, namely, Kuldeep Singh, who has been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 10.10.2022 passed in CRM-M-45044 of 2022 (Kuldeep Singh v. State of Punjab). It is further submitted that no other case is pending or registered against him and trial would take sufficient time to conclude. Thus, prays, regular bail for the petitioner.

Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner. He submits that petitioner is involved in serious offence which is against the society. He further submits that stolen

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articles have also been recovered from the possession of accused persons. In response, learned counsel for the petitioner refers to the observation given by learned Additional Sessions Judge, Fazilka, in its order dated 26.07.2022 where the recovery of articles such as mobile phone, motor cycle and activa are effected from the joint possession of the accused persons. Therefore, argues that no particular recovery can be attributed to the petitioner. However, learned State counsel does not dispute the fact that after completion of investigation challan was presented on 16.07.2022 and, thereafter, charges were framed on 01.09.2022. He further submits that out of total 15 prosecution witnesses, none has been examined so far.

I have considered the submissions of both the sides, and perused the material available on record with their able assistance.

I am of the view that the applicability of provisions of Section 379-B IPC making the case triable by learned Court of Sessions would be a question before the trial Court which would be decided at the final stage of the trial. Taking into consideration the period of actual custody already undergone by the petitioner, no purpose would be served by keeping the petitioner inside jail, especially, when trial is moving very slow, as out of 15 prosecution witnesses none has been examined so far. Therefore, I deem it appropriate to enlarge the concession of bail to the petitioner.

In view of the aforementioned facts and circumstances of the case and the submissions recorded hereabove, present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if

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not required in any other case.

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 here-in-above 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 evidence available on record.

However, it is made clear that in future if the petitioner is found involved in any other case of similar nature, respondent-State would be at liberty to take necessary steps for cancellation of bail granted to the petitioner in present case.

19.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No