

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

212

CRM-M-41037-2022

Decided on : 13.09.2022

Shakti Partap Johri @ Shakti

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Rahul Deswal, Advocate
for the petitioner.

Mr. J. S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Shakti Partap Johri @ Shakti, who has been booked for having committed the offence punishable under Sections 457, 380, 328 IPC (Sections 381 and 411 added lateron), in FIR No. 134, dated 24.06.2022, registered at Police Station Civil Lines, Patiala, District Patiala.

Learned counsel for the petitioner submits that as per allegations mentioned in the FIR, petitioner is neither named nor has any involvement during the course of alleged incident. He submits that main accused are Jogi Manjhi @ Shankar and his wife Rekha and four others. He further submits that petitioner is a jeweller whose residence is 930 km away in village Imliya Gurdial in District Gonda (UP).

Learned counsel for the petitioner further submits that allegation against the petitioner is that he had received gold ornaments i.e. 2 diamonds of 75/75 cent each, 1 gold pendant and 5 diamonds of 1/1 cent each and therefore, Section 411 IPC has been levelled against him i.e. 'Knowingly

receiving of the stolen articles’.

Counsel further submits that for a person residing at a such distant place, it is highly improbable that he would assume that the received articles are stolen one. Therefore, required ingredients for making out of an offence under Section 411 IPC are missing in the present case as petitioner was not having any “knowledge” about any such theft.

Per contra, learned State counsel submitted custody certificate dated 12.09.2022 in the Court today and same is taken on record. As per said custody certificate, petitioner had already undergone custody for a period of 29 days and no other case of any nature is registered against the petitioner. While opposing the prayer made by learned counsel for the petitioner, learned State counsel points out that it is a serious matter where main accused have defrauded their own masters and the articles stolen by them have been received by the present petitioner. He further submits that investigation is pending and challan is yet to be filed. However, on enquiry from investigating officer, who is present in Court, learned State counsel could not point out any other allegation except as already levelled against the petitioner.

Be that as it may, considering the submissions of both the sides, and perusing the material available on record with their able assistance, I am of the view that case in hand is triable by the Court of learned Magistrate and role of the petitioner is confined to that of receiving of the stolen jewelry and same has been recovered from the possession of the petitioner. It is also the matter of fact that petitioner is resident of a distant place as explained by the counsel for the petitioner hereabove. Further, applicability of Section 411 IPC would be examined by the trial Court during the course of investigation. In such circumstances, no purpose would be served by keeping the petitioner

inside jail, especially, when trial is not likely to conclude in near future. Therefore, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

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

(SANJAY VASHISTH)
JUDGE

September 13, 2022

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No