

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

CRM-M-47369-2021

Date of Decision: 15.07.2022

Tony Kumar Mehra

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Arshdeep Singh, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for the grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.95 dated 24.05.2021 (Annexure P-1) registered under Sections 379, 379-B, 411 IPC, 1860 at Police Station Tibba, District Police Commissionerate Ludhiana.

2. The brief facts of the case are that when the Police party was on patrolling duty, a secret informer informed the ASI that Tarun Kumar son of Sushil Kumar and Tony Kumar Mehra son of Darshan Lal, who indulged in committing thefts of motorcycle, Activa and snatching of mobile phones were

on that day moving around on their stolen Activa scooty bearing No.PB10GR-9335 for selling of snatched mobile phones near Shamshan Ghat, Mohalla Chander Lok Colony, Ludhiana and they were to go towards Tower Line, Subhash Nagar. If a Naka was laid then they could be apprehended along with the snatched mobile phones and a stolen scooty. Based on the said information, the present FIR came to be registered.

3. Thereafter, the Police laid a Naka at the disclosed place, where it apprehended the petitioner and his accused Tarun Kumar. One Activa Honda bearing No.PB10GR-9335 was recovered from the petitioner and his associate along with five mobile phones. Subsequently, two more motor-cycles were also got recovered by the petitioner on the basis of his disclosure statement.

4. The petitioner filed the present petition and on 16.11.2021, the petitioner was ordered to be admitted to interim bail till the next date of hearing before this Court. A Gazetted Officer was also directed to file an affidavit explaining as to how an offence under Section 379-B IPC was made out. The matter was adjourned from time to time and it has come up today for final adjudication.

5. The learned counsel for the petitioner contends that no recovery has been effected from the petitioner. Section 379-B IPC is not attracted to the facts of the present case and in fact, a false case has been planted upon the petitioner. He contends that he was taken into custody on 24.05.2021 and was released on interim bail on 16.11.2021, which shows that he has undergone an actual custody period of approximately 06 months during which period he has not committed any offence. It is further contended that

the challan had been submitted in the present case on 22.07.2021 but no prosecution witness has been examined till date and therefore, the petitioner deserves the concession of regular bail.

6. On the other hand, the learned State counsel while referring to the reply dated 11.03.2022 contends that the petitioner and his co-accused were arrested at the Naka. As many as 09 mobile phones which had been snatched from different persons were recovered from the petitioner and his co-accused along with a stolen Activa. The statement of one Laltoon Choudhary was also recorded under Section 161 Cr.P.C., wherein he stated that some unknown persons had snatched away his mobile phone. Thus, it was established that an offence under Section 379-B IPC was made out contrary to the submissions of the petitioner. It is also contended that the arrested accused including the petitioner made their confessional statements regarding stealing of multiple motor-cycles and Activa scooters. In fact, while stealing this Activa, the petitioner and his co-accused were captured in the CCTV camera and from the said recording, the owner of the Activa namely Parmeet Singh identified the petitioner and his co-accused who has stolen his Activa on 13.03.2021. However, the counsel for the State fairly conceded that the petitioner had undergone approximately 06 months sentence and had not committed any offence while he had been on interim bail vide order dated 16.11.2021, though there are four other FIRs registered against him bearing (i) FIR No.01 dated 16.01.2019 registered under Sections 379-B, 411, 34 IPC at Police Station Daresi, (ii) FIR No.242 dated 13.09.2013 registered under Sections 382, 34 IPC at Police Station Jodhewal, (iii) FIR No.292 dated 23.08.2015 registered under Sections 399, 402 IPC

and Sections 25, 54, 59 of Arms Act at Police Station Jodhewal and (iv) FIR No.244 dated 15.09.2013 registered under Sections 382, 34 IPC and Sections 22, 61, 85 NDPS Act at Police Station Jodhewal, in which he has been granted the concession of bail.

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

8. Admittedly, the petitioner was granted the concession of interim bail, which has not been misused by him. In the other FIRs registered against the petitioner, he has been granted the concession of bail.

9. As per the reply dated 11.03.2022, the report under Section 173 Cr.P.C. already stands submitted on 22.07.2021 but even the charges have not been framed yet and therefore, the trial of the present case is not likely to be concluded in the near future. Even otherwise, the culpability of the petitioner shall be adjudicated upon during the course of the trial.

10. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

11. 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.

12. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the

State would be at liberty to move an application for cancellation of bail granted vide this order.

13. The petition stands dispose off.

(JASJIT SINGH BEDI)
JUDGE

15.07.2022

JITESH

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