

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

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CRM-M-48577-2021

Date of Decision : **February 22, 2022**

GAURAV

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Mr. Lalit Kumar, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.391 dated 23.8.2021 under Sections 380, 457, 34 IPC, registered at Police Station Old Sabzi Mandi, District Rohtak.

As per the allegations contained in the FIR which was lodged on the basis of statement made by one Dayanand that when he had gone out to his in-laws at Muradpur Tekna and when thereafter he came back to his house then he found that the lock of the house broken and entire articles were scattered and on checking he found two pairs of pajeb (anklets), one pair of gold ear rings (5 gms), two pairs of long (nose pin), one silver chain and Rs.40,000/- in cash were stolen from his iron almirah.

The learned counsel for the petitioner has submitted that there are two accused in the present case and the other co-accused has been granted bail by the learned trial Court and, therefore, he is also at parity with the aforesaid co-accused. He further submitted that earlier also he had filed bail petition before this Court but the same was withdrawn on 4.10.2021 and thereafter another bail application was filed

before the learned trial Court which has been dismissed. He submitted that the petitioner is in custody from 25.8.2021 which is almost six months and the challan has been presented before the competent Court and since the case is triable by the Magistrate, he may be considered for the grant of regular bail.

On the other hand, the learned State counsel has vehemently opposed the grant of bail to the petitioner. He submitted that although the petitioner is in custody for the past six months and the challan has been presented in the competent Court but considering the facts and circumstances of the case and the antecedents of petitioner, he may not be granted the concession of regular bail. He further submitted that the charges are yet to be framed and the petitioner is involved in two more cases and out of those two cases one is of the similar nature. The other two cases in which the petitioner was involved i.e. FIR No. 169 of 2021 under Sections 324, 341, 506, 201 and 34 IPC and FIR No. 390 of 2020 under Sections 457, 380 IPC of Police Station Old Sabzi Mandi, Rohtak. He further submitted that the petitioner is a habitual offender whereby he has committed the theft of gold and silver ornaments apart from the cash. The learned State counsel has further submitted on instructions from the concerned IO that the ornaments which were stolen have been recovered by the police from the petitioner and the same have been identified by the complainant to be the same articles which are the subject matter of theft. He submitted that although that some cash of Rs.2,000/- and some other articles were also recovered from co-accused, namely, Rinku @ Pgal but that would not vest any right upon the petitioner to seek the concession of regular bail considering the aforesaid facts and circumstances of the case. He has further submitted that in view of the facts of the case there is a likelihood that the petitioner may repeat the offence and may abscond from justice in case he is released on bail especially when as of now no prosecution witness has been examined.

I have heard the learned counsels for the parties.

The petitioner is in custody for the last six months and the matter is now fixed for consideration of framing of charges. The petitioner is also involved in two more cases out of which one of the case pertains to similar kind of offence. The arguments raised by the learned State counsel that the recovered articles were identified by the complainant and the same were recovered from the petitioner, therefore, would carry some weight. Further argument raised by the learned State counsel that in view of the antecedents of the petitioner there is a likelihood that he may repeat the offence also carries weight. The petitioner cannot raise the argument of parity in view of the aforesaid facts and circumstances wherein the petitioner is involved in other cases as well and in the present case, recovery has been made from him.

Consequently, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

February 22, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No