

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-53278-2022 (O & M)****Date of decision: 23.11.2022**

Chetan Kumar

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Davinder Bir Singh, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.44 dated 28.02.2022 registered under Sections 380 IPC and Sections 411, 454, 427, 452, 409, 201, 120-B IPC (added later on) registered at Police Station Division No.5, Ludhiana.

2. The present FIR came to be registered at the instance of Karan Kumar, Ahlmad in the Court of Chief Judicial Magistrate, Ludhiana, who statred that he was posted as Ahlmad in the Court of Sh. Sumit Makkar, Chief Judicial Magistrate, Ludhiana The judicial files of the ongoing criminal cases were in his possession in their officer opposite the Court of the Chief Judicial Magistrate. There were three other officials working with him at the relevant time. The office opened at 9.00 a.m. and closed at 5.30 p.m. when a lock was affixed on the gate of the office by them (complainant and his co-workers). On 25.02.2022, the office was opened at 9.00 a.m. and

they had gone to their respective houses. On 27.02.2022, an information was received from the Chowkidar-Rajinder Singh that the office was not locked. At this, he (complainant) alongwith Civil Ahlmad-Shekhar Bansal reached their officer at District Court, Ludhiana and it was found that the computer screen was missing. He, therefore, had a doubt that some unknown person had broken the lock of the door of the Ahlmad office and stolen the computer screen. Based on the said aforesaid allegations, an FIR No. 44 dated 28.02.2022 registered under Sections 380, 411, 454, 427, 452, 409, 201, 120-B IPC registered at Police Station Division No.5, Ludhiana came to be registered against unknown persons. During investigation, it transpired that theft had been committed at the instance of an Advocate Hardyal Singh Grewal, Deepak Dogra (since granted bail vide order dated 15.09.2022 passed in CRM-M-25903-2022) and Chetan Kumar (the present petitioner). It was also revealed that the petitioner-Chetan Kumar was seen in CCTV footages taking the computer screen towards the Lawyers' chambers and the story further unfolded that the Deepak Dogra was working as a private Ahlmad in the District Courts. It transpired that it was Deepak Dogra, who had asked the petitioner-Chetan Kumar to steal the judicial file of a civil suit from the Court.

4. The learned counsel for the petitioner contends that the co-accused of the petitioner, namely, Deepak Dogra, has been granted the concession of bail by this Court vide order dated 15.09.2022 passed in CRM-M-25903-2022. The second co-accused of the petitioner, namely, Hardyal Inder Singh has been granted the concession of interim anticipatory bail vide order dated 25.07.2022. The computer screen already stands recovered from the petitioner. The judicial file was recovered from a Saloon

custody since 01.03.2022 and none of the 12 prosecution witnesses have been examined till date and therefore the Trial of the present case is not likely to be concluded anytime soon. Since the petitioner was a first-time offender, therefore, he deserves the concession of regular bail, moreso, when his co-accused have been granted the said concession.

5. The learned counsel for the State, on the other hand, contends that serious allegations have been levelled against the petitioner and his co-accused for having stolen not only computer screen but also a judicial file. He contends that there is sufficient evidence inculcating the petitioner, and as such, he does not deserve the concession of bail. He, however, does not dispute the fact that the petitioner is in custody since 01.03.2022 and none of the prosecution witnesses have been examined so far and the petitioner is a first-time offender.

6. I have heard the learned counsel for both the parties.

7. Undoubtedly, the allegations against the petitioner and his co-accused are grave. But it is equally true that the offences for which the petitioner and his co-accused have been charged are triable by the Court of the Magistrate. This Court in the case of “**Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022)**”, has stated that broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. In this case, the petitioner is in custody since 01.03.2022 and none of the 12 prosecution witnesses have been examined so

the near future. The co-accused of the petitioner, namely, Hardyal Inder Singh has been granted the concession of interim anticipatory bail vide order dated 25.07.2022 passed by the co-ordinate Bench of this Court and another co-accused, namely, Deepak Dogra, has been granted bail by this Court vide order dated 15.09.2022 passed in CRM-M-25903-2022. Therefore, the further incarceration of the petitioner is not required.

8. Thus, in view of the above, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Chetan Kumar, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

November 23, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No