

210 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

\*\*\*\*

CRM-M-5773-2022  
Date of Decision: 10.04.2023

Onkar Singh @ Fauji

..... Petitioner

Versus

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Ravi Malhotra, Advocate  
for the petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

\*\*\*\*\*

**HARSH BUNGER J. (ORAL)**

Petitioner (Onkar Singh @ Fauji) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.225 dated 31.10.2021, under Section 379-B of the Indian Penal Code, registered at Police Station Model Town, District Police Commissionerate Ludhiana.

2. Status report by way of affidavit dated 02.03.2023 of Ms. Jasroop Kaur Batth, I.P.S., Assistant Commissioner of Police, Civil Lines, Ludhiana has been filed, which is already on record.

3. Custody certificate dated 08.04.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Succinctly, the aforesaid FIR was registered on complaint of Assistant Sub Inspector Sita Ram, wherein it was stated that on 31.10.2021, he, along with fellow officials, was present at Safaidda Chowk in connection with inquiry of complaint submitted by Suman Rani D/o Kewal Krishan; when a special messenger came to him and informed that Onkar Singh @ Fauji (petitioner), who is habitual of committing theft and snatching, and who had snatched mobile phone from a girl on 17.10.2021, was sitting at the Workshop of his father, near Dholewal Chowk, Ludhiana. Thereafter, petitioner was arrested in the instant case.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case, which is apparent from the fact that the alleged incident of snatching of mobile phone from a girl occurred on 17.10.2021, however, there was no case registered in that regard. It is submitted that a bare perusal of the FIR in question reveals that there is an inordinate delay of 15 days in registration of FIR. It is stated that the petitioner is in custody since 31.10.2021, investigation of case is complete, challan has already been submitted on 28.12.2021 and even charges have been framed on 06.06.2022. It is further stated that out of the total eighteen prosecution witnesses, none has been examined so far, hence conclusion of trial will take some time and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground that the petitioner is a habitual offender and is

involved in fourteen other cases, however, it is fairly submitted by learned State counsel that in most of the cases, the petitioner either stands acquitted or released on bail. It is not disputed by learned State counsel that the petitioner is in custody since 31.10.2021 in the present case; investigation in this case is complete, challan stands submitted and charges have also been framed. It is also not disputed that out of the total eighteen prosecution witnesses, no one has been examined so far.

7. I have heard learned counsel for the parties and perused the paper book, status report as well as custody certificate of the petitioner supplied by learned State counsel in Court today.

8. In this case, the petitioner is in custody since 31.10.2021, i.e. more than one year and five months. Investigation in this case is complete, challan stands presented on 28.12.2021 and even charges have been framed on 06.06.2022. Out of the total eighteen prosecution witnesses, none has been examined by now, hence, trial in the case is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars for an indefinite period of time.

9. So far as involvement of petitioner in fourteen other cases is concerned, suffice it to say that the registration of other cases against the petitioner cannot be taken to be as the sole material consideration for the purpose of declining him the relief of bail. In this regard, reference can be made to the judgment rendered by Hon'ble Supreme Court in the case of ***“Maulana Mohammed Amir Rashadi Vs. State of Uttar Pradesh and another”***, reported as ***(2012) 2 Supreme Court Cases, 382***, wherein it was observed as under:-

*“It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several*

*criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”*

10. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on every alternate Monday till the conclusion of trial and on each such appearance, the petitioner shall submit an affidavit to the concerned Police Station/Station House Officer that he is not involved in any other case, apart from the cases which are stated to be pending against him in the status report dated 02.03.2023.

11. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be

forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The petition is accordingly disposed of.

10.04.2023

*Apurva*

(HARSH BUNGER)  
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No