

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

CRM-M-6009-2023
Date of Decision: 09.02.2023

AJAY TYAGI @ KANCHAN

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

This 2nd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.122 dated 20.07.2022 registered under Section 454, 380, 411 IPC at Police Station Kartarpur, District Jalandhar (Rural).

2. The present FIR came to be registered at the instance of Sukhjinder Singh son of Shingara Singh who stated that he was an agriculturist. His (complainant's) uncle Kulwinder Singh son of Kehar Singh was also an agriculturist. Balwinder Kaur his (complainant's) aunt was admitted at Mannat Hospital, Jalandhar and his uncle had gone to look after her. He (complainant) was present at his house when his uncle called him and told him that he had checked the CCTV footage of the cameras installed at his house (Chacha Kulwinder Singh's house). Two unknown persons had entered the house with an intention to commit theft. He (complainant) along with his neighbour Yudveer Singh son of Jagjit Singh reached his uncle's house when

the two young persons ran away. However, they were apprehended and disclosed their names as Ajay Tyagi @ Kanchan (petitioner) and Sanjay Kumar. It was found that the accused had stolen Rs.35,000/- and one Samsung phone.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The recovery of Rs.35,000/- and the mobile phone already stands effected. The investigation has been completed and none of the 10 prosecution witnesses had been examined so far. Since the petitioner was in custody since 20.07.2022, he was entitled to the concession of regular bail, even though there were 04 other cases registered against him in which he had been granted the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner and his co-accused were apprehended at the spot. Though the co-accused Sanjay Kumar has been granted the concession of bail, the case of the petitioner was on a different footing as he was a habitual offender with 04 other cases of similar nature registered against him. Therefore, he was not entitled to the grant of regular bail.

5. I have heard the learned counsel for the parties.

6. Undoubtedly, the petitioner is a habitual offender with 04 other cases registered against him. However, in the aforementioned cases, he has been granted the concession of bail vide orders dated 16.07.2018, 18.07.2018, 18.10.2018 and 03.01.2022. The copy of the said orders are marked as **A, B, C and D**. His co-accused Sanjay Kumar has been granted the concession of bail vide order dated 22.09.2022 (Annexure P-3) passed by the Judicial Magistrate, 1st Class-6. The petitioner has been in custody since 20.07.2022

and none of the 10 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ajay Tyagi @ Kanchan son of Sh. Guru Dutta 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.

8. 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.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

09.02.2023

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No