

CRM-M-10315-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.232

Case No. : CRM-M-10315-2023

Date of Decision : May 24, 2023

Shivam @ Sunny

.... Petitioner

vs.

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Ms.Alisha Soni, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

* * *

GURBIR SINGH, J. :

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.50 dated 15.02.2022, under Section 379-B IPC (Section 29 of the Arms Act added later on), registered at Police Station Asaudha Bahadurgarh, District Jhajjar (Annexure P-1).

The case in question was registered on the basis of complaint made by one Rafik Ahmed. As per allegations, on 13.02.2022 at about 11:00 AM, when complainant was returning to Village Mandauthi after buying junk from Village Rohad in his rickshaw, 3-4 boys came to him and started bargaining for purchase of junk from him. Suddenly, one of them stole his mobile phone (make Samsung) kept in the rickshaw and left. FIR was registered for the offence committed under Section 379 IPC. On 18.02.2022, the complainant gave a written complaint that on 13.02.2022, four boys came on motorcycle and snatched his mobile phone by showing

pistol to him. On the basis of the said statement, Section 379-B IPC and Section 25 of the Arms Act were added and Section 379 IPC was deleted from the FIR in question.

Learned counsel for the petitioner contends that the petitioner is in custody since 25.02.2022. Two co-accused, who were juveniles, were already granted concession of regular bail. Challan in this case is already presented and charge has also been framed. The petitioner was nominated on the basis of disclosure statement made by the co-accused. No recovery has been effected from the petitioner. The stolen mobile phone and motorcycle used in the crime have been recovered from the possession of co-accused. The complainant has already been examined as PW-2 before the Trial Court. He has not supported the prosecution version. He was declared hostile. Statement of the complainant has been annexed as Annexure P-3.

Custody Certificate of the petitioner has been filed by learned State counsel, which is ordered to be taken on record.

Learned State counsel has admitted that the challan has been presented in this case. The complainant stands examined but he has not supported the prosecution version. The petitioner has been in custody for the last about 01 year and 03 months. Three other cases are also pending against the petitioner and in two of these cases, he has been granted concession of bail.

Heard.

In view of the aforesaid facts and circumstances of the case, keeping in view the facts that the petitioner is in custody for the last about

01 year and 03 months, completion of trial would take long time, no recovery has been effected from the petitioner and most importantly, the complainant has not supported the version of prosecution, no useful purpose would be served by keeping him behind the bars.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/ surety bonds, to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate concerned. The petitioner shall also abide by the following conditions :-

- 1. The petitioner shall give his mobile number to the Trial Court and get the same registered, on which SMS shall be received from the CIS and shall not change his mobile number during pendency of the case.*
- 2. The petitioner shall not change his residence during trial without prior intimation to the trial Court.*
- 3. The petitioner shall appear before the Trial Court on each and every date of hearing.*

The Trial Court is at liberty to impose any other condition that it may deem appropriate. It is further clarified that in case of default of any of the conditions, then the concerned Court is competent to cancel the bail granted to the petitioner.

Nothing stated herein above be construed as a final expression of opinion on the merits of the case and the Trial Court would proceed

independently of the observations above, which have only been made for the purpose of adjudication of the present petition for grant of regular bail.

May 24, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.