

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

(225)

CRM-M-13585 of 2023
DATE OF DECISION:-22.03.2023

Sabi Masih

...Petitioner

VS.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S. S. Khaira, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of regular bail in case FIR No.66 dated 08.08.2022 under Sections 379-B, 411 (added subsequently) and 34 IPC, registered at Police Station Kahnuwan, District Gurdaspur.

As per FIR, allegations levelled against the petitioner are that he removed gold earrings weighing around 3.5 grams from the ears of the wife of complainant. Learned counsel for the petitioner submits that the incident in question took place on 01.08.2022, whereas, the complaint was lodged after a period of 7 days i.e. on 08.08.2022. He further submits that the investigation in the present case already stands concluded with the filing of challan and only two witnesses have been examined, out of total 13 witnesses as cited by the prosecution and as such the trial is likely to take some time to conclude. Learned counsel also submits that petitioner is already behind the bars for a period of more than 6 months now, thus,

petitioner deserves the concession of regular bail.

On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that petitioner is habitual offender and there are 7 more cases pending against him out of which 3 cases are of similar nature.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

In the present case, there has been an apparent inordinate delay of 7 days in lodging the FIR . The alleged incident took place on 01.08.2022 whereas, the complaint was moved on 08.08.2022. The petitioner is already behind the bars for a period more than 6 months and the investigation already stands concluded. The conclusion of trial is likely to take some time as such, no useful purpose is going to be served for extending the incarceration of the petitioner any further. As regards the other cases pending against the petitioner, it may be pointed out here that for the purpose of deciding the present bail application, the allegations levelled against the petitioner in the present case are to be considered primarily in view of the law laid down by the Hon'ble Supreme Court in the case of **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**, 2012 (1) RCR (Criminal) 596, thus, the petitioner deserves the concession of regular bail.

Without commenting anything on the merits, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

22.03.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No

whether reportable: Yes/No