

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(213)

Raju @ Bachhi

2023:PHHC:077896
CRM-M-12078-2023
Date of Decision: 29.05.2023
--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.S. Rana, Advocate for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.1139 dated 16.9.2022 under sections 380, 454 I.P.C (section 411 IPC added later on), registered at Police Station, Hisar Sadar, District Hisar.

As per factual matrix, a complaint was lodged by Sunil son of Ramji Lal, wherein it was alleged that in their absence a theft had taken place in their house in which 4 gold rings, 2 pair topas, one necklace, silver panjebs, foot ring, silver rings and cash of Rs.9500/- were found to have been stolen. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. During investigation the investigating agency found the involvement of three accused including the present petitioner. Petitioner was arrested on 19.9.2022. He approached the court of learned Addl. Sessions Judge, Hisar for grant of bail, however, after hearing the parties, the same was declined vide order dated 30.12.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that from the bare reading of the allegations made in the FIR it is apparent that no time and date have been given by the complainant regarding the alleged theft. He submits that during investigation the petitioner was falsely implicated in this case and recovery of jewellery was planted upon him. To buttress his arguments, counsel submits that complainant has already been examined by the Trial Court as PW-1 and as he did not support the case of prosecution, he has been declared hostile on the request of learned APP. It is submitted that similarly situated two co-accused have already been granted bail by the Trial Court. It is submitted that investigation in this case is complete and as the material witnesses have not supported the case of prosecution, petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions has submitted that complicity of the petitioner in this case was established during investigation and the recovery of jewellery was effected from him. He submits that petitioner is involved in one more case, however, he candidly submits that complainant in this case has not supported the case of prosecution. He submits that two of the co-accused have already been granted bail by the Trial Court. It is submitted that all the prosecution witnesses stand examined by the Trial Court and the case is fixed for recording defence evidence.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 19.9.2022. As submitted before this court, complainant has not supported the case of

prosecution and has been declared hostile. Two of the co-accused have already been granted bail by the learned Trial Court. All the prosecution witnesses stand examined, however, counsel for the petitioner succeeds in making out a case for grant of bail to the petitioner.

This court would refrain itself from commenting anything on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

29.05.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No