

CRM-M-14207-2022

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

212

CRM-M-14207-2022

Date of Decision : 27.03.2023

Sourabh @ Saurabh

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Anshuman Dalal, Advocate  
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.228 dated 11.06.2021 under Sections 379-B, 392, 427, 354-A of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Sadar Rohtak, District Rohtak.

2. The case of the prosecution is that the complainant who is serving State of Haryana as Head Constable lodged a complaint alleging that on 11.06.2021 at about 4.00 p.m., after doing her duty, she was going to her village on her activa at about 4.30 p.m. When she reached near outer bypass bridge of Samargopalpur, a boy came on a scooty and hit her scooty. She fell down on the road. The boy tried to outrage her modesty and when she

objected, the said boy took away her purse containing Rs.15,000/- and her uniform from her scooty. The boy also snatched her gold chain.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner was arrested in FIR No.363 dated 06.09.2021. The police recorded disclosure statement in the said FIR and on the basis of disclosure statement implicated him in many FIRs alleging commission of offence of theft.

The petitioner was implicated on the basis of disclosure statement. The petitioner stands acquitted in FIR No.363 dated 06.09.2021 vide judgment dated 22.12.2022 passed by District & Sessions Judge, Rohtak which indicates that the petitioner has been implicated in false cases. A Co-ordinate Bench of this Court in CRM-M-14043-2022 vide order dated 30.05.2022 has granted concession of bail in FIR No.357 dated 15.10.2020. The petitioner has been wrongly implicated in the alleged offence. The complainant is a police official still as per FIR after occurrence of alleged incident, she went to home and did not inform either personally or telephonically to her police station. She had alleged that the petitioner had run away with uniform of the complainant. There seems no reason to take away uniform of the complainant. The petitioner is in custody since 24.09.2021 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. There is no possibility of flee from justice.

4. Custody certificate dated 24.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that out of 23 witnesses, 2 have already been examined.

6. In the case in hand, the petitioner is in custody since 24.09.2021. He has been implicated on the basis of disclosure statement while he was in police custody. Initially, the petitioner was arrested in FIR No.363 dated 06.09.2021 and he has already been acquitted by trial Court vide judgment dated 22.12.2022. A Co-ordinate Bench of this Court vide order dated 30.05.2022 has released the petitioner in FIR No.357 dated 15.10.2020. The Court has noticed other FIRs registered against the petitioner. The Court relying upon judgment of Hon'ble Supreme Court in ***"Maulana Mohd. Amir Rashadi versus State of U.P. and another, 2012(1) RCR (Criminal) 586"***, and this Court in ***"Rajender Singh versus State of Haryana, CRM-40431-2021 in CRA-D-1640-DB-2014"*** has considered the case of the petitioner and thereafter released him on bail. On account of present case, the petitioner is in custody despite order dated 30.05.2022 passed by this Court in CRM-M-14043-2022. There are total 23 prosecution witnesses and till date, 02 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)  
JUDGE

27.03.2023  
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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |