

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21942-2023 (O&M)

Date of decision: 17.07.2023

Khushal Singh

...Petitioner

VS

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

Present: Ms. Jannat Duhan, Advocate,
For the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Status report by way of an affidavit of Rupinderdeep Kaur Sohi, PPS, Deputy Superintendent of Police, Sub Division Kharar-I, District SAS Nagar, on behalf of respondent-State of Punjab has been tendered in course of hearing, which is taken on record.

2. Aggrieved on being declined bail by learned trial Court, petitioner, aged 20 years, seeks his release as an undertrial in case bearing FIR No.260 dated 29.12.2022, registered under Sections 379-B, 323 read with Section 34 of the Indian Penal Code at Police Station Sadar Kharar, District SAS Nagar.

3. Per prosecution version, FIR was registered on the statement of complainant Jashanpreet Singh that two unknown persons had snatched his car bearing registration number PB-11-W-0550, Make Accent, colour black and an iPhone- 11, colour white and Rs.700/- cash at knife point on 28.12.2022 while he was en-route Gharuan from the house of his friend Gurkaran Singh in village Rohre. In course of investigation, petitioner was arrested as a suspect on 02.01.2023.

4. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He has been arrayed as an accused on the basis of a

secret information. He was not present at the time of occurrence. She submits that during investigation, the alleged stolen car was found to be registered at Patiala in the name of one Jarnail Singh and another car without number plate, Make Swift Dzire, which was seized by the police, was found to be registered at Ludhiana in the name of one Jasmine Sandhu, who is a sister of co-accused Ranveer Singh.

4.1. Learned counsel for petitioner further contends that during investigation, said Jasmine Sandhu was made to join investigation and her statement was also recorded. Learned counsel refers to statement of Jasmine Sandhu under Section 161 Cr.P.C. (Annexure P-5), which reads as under:

“It is stated that I am the resident of the above mentioned address. I have a car, no. PW 10EF 9870 mark Swift Dzire, Colour white which is registered in my name. Which is driven by my brother Ranveer Singh. You have written my statement which is correct.”

4.2 He argues that swift car was thus not stolen property as it was voluntarily given by its owners to her brother for usage. Learned counsel for petitioner would further urge that be that as it may, allegations attributed to the petitioner are not only a matter of trial but in any case, trial will eventually result in acquittal in view of the statement under Section 161 Cr.P.C. made by sister of the accused contained at Annexure P-5 that the alleged car which was stolen was being plied by co-accused Ranveer. She would further submit that thus, there was no question of any such alleged recovery of the stolen car to be made and that too purportedly on the custodial disclosure statement. She further canvasses that disclosure statement *qua* petitioner was made under coercion and the same is not *per se* admissible in trial. She further states that no other case is pending against him.

4.3. Petitioner/accused is a young boy of 20 years, a student, having finished class 10th and was preparing himself for his recruitment in Indian Army and his entire career has been put to jeopardy because of his illegal continued incarceration, contends the learned counsel for the petitioner.

5. Learned State counsel, assisted by ASI Manjit Singh, strenuously opposes the instant petition. She submits that petitioner is involved in a serious offence. She further states that prosecution has gathered sufficient evidence against petitioner and challan has also been filed. On a Court query, she admits that no other case is pending against the petitioner.

6. I have heard rival contentions of learned counsels for the parties and gone through the case file.

7. Since challan has been filed, investigation *qua* petitioner is complete, therefore, custodial interrogation of the petitioner is not required. Nothing is to be recovered from the petitioner. He is being kept in jail only on the suspicion of tampering with the evidence and /or influencing the witnesses. Trial is unlikely to conclude in near future. Whereas, petitioner has already been languishing in jail for the past six months and nine days in preventive custody. Bail allows an accused to maintain his freedom until his guilt or innocence is determined.

8. In the instant case, there is no likelihood that petitioner might flee or not appear in Court if released on bail. Petitioner has clean antecedents.

9. Considering the overall scenario, more particularly statement made by sister of accused under Section 161 Cr.P.C., without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

17.07.2023
Vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No