

CRM-M-21809-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21809-2023 (O&M)

Date of decision: July 13, 2023

Rakesh Kumar @ Kaku

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Nirmaljeet Singh Sidhu, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

This is second foray of petitioner before this Court seeking regular bail in FIR No.34 dated 05.03.2018, registered under Sections 379B, 382 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Morinda, District Rupnagar, as the earlier one was dismissed as withdrawn on 01.03.2023.

2. Per prosecution version, petitioner along with other accused persons in furtherance of common intention committed theft of Rs.1,300/- and a mobile phone from the possession of complainant-Ram Naresh. Petitioner was arrested on 13.07.2018.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that petitioner was not named in the FIR. There is no other case against the petitioner. Father of the petitioner has since, family including his aged mother is dependent on his earnings and is suffering in penury in his absence. There is nothing to be recovered from the petitioner.

4. On the other hand, learned State counsel, on instructions from ASI Manjit Singh opposes the bail petition. He submits that petitioner has committed a serious offence. He is habitual offender and is involved in 10 other cases, out of them he is on bail in only 5 cases. Challan was presented and charges were framed on 15.12.2021. There are total 11 witnesses and out of them only 2 remain to be examined.

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5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.
6. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more than 5 years in preventive custody, he being behind bars since 13.07.2018.
7. In the present case, petitioner was not named in the FIR. Nothing is stated to have been recovered from the petitioner. Since trial has already commenced, petitioner is not required for any further custodial interrogation. Trial is likely to take long time as 2 witnesses are yet to be examined.
8. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
9. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, 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.
10. 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.
11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 13, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No