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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24494-2023 (O&M)

Date of decision: 21.08.2023

Jatinder Kumar @ Sonu

...Petitioner

VS

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr. Rahul Verma, Advocate,
For the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Aggrieved on being declined bail by learned trial Court, petitioner seeks his release as an undertrial in case bearing FIR No.0024 dated 12.02.2023, registered under Sections 379-B (2) read with Section 34 of the Indian Penal Code (Section 411 of IPC added later on) at Police Station Division No.2, Pathankot District Pathankot.

2. Per prosecution version, FIR was registered on the statement of complainant Harjot wife of Sugandh Kumar that two unknown persons snatched a chain from her neck on 12.02.2023 while she was on way home from market. Petitioner was arrested on same day i.e. 12.02.2023 and is in custody since then.

3. Learned counsel for petitioner submits that FIR is false and without an iota of truth. No offence is made out against the petitioner as per alleged version of the FIR. Description of the petitioner does not find mention in the FIR. The necessary ingredients to constitute the offence under Section 379-B (2), 411 petitioner has been falsely implicated.

4. On the other hand, learned State counsel, on instructions from ASI Vimal Kumar, opposes the bail petition. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He is a habitual offender. She

submits that six other cases (five are of similar nature), are pending against the petitioner. However, he is on bail in all cases.

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

6. On a court query, learned State counsel submits that challan was filed on 12.04.2023, charges have been framed on 22.05.2023. There are 11 prosecution witnesses, none has been examined. Investigation *qua* petitioner is complete, therefore, custodial interrogation of the petitioner is not required. Nothing is to be recovered from the petitioner.

7. 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. 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 six months and seven days in preventive custody.

8. Petitioner is stated to be 38-year old family person having wife and children, who are totally dependent on him and in his absence, they are living in sheer penury. Being a married person with family responsibilities and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Considering the overall scenario, 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 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 of the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced by this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

21.08.2023
Vandana

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