

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM M-27352 of 2023
Date of Decision: 20.10.2023

Gourav Kumar @ Gaurav
Kumar @ Gora

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Simranjeet Singh Sarwara Advocate, for the
petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.338 dated 31.10.2014 registered under Sections 380, 457, 436 and 471 IPC at Police Station Zirakpur, District SAS Nagar.

2. The FIR in the present case was registered on the basis of the statement made by Gurpeet Singh. As per him, at about 09.00 p.m. on 30.10.2014, he had locked his shop and came back to home. At about 03.00 a.m on 31.10.2014, he received a phone call that theft had taken place in his shop and there was fire at the battery. He reached the spot and saw that door of their shops had been broken and Rs. 50,000/- and a bag containing clothes, jackets etc., was found

stolen and from other shops also, various commodities were stolen by the thieves. When he checked the recording of the camera and found that the theft was committed by Vipin @ Aman and one more unidentified person. With these allegations, the FIR in the present case was registered.

3. Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 09.11.2014 and was granted the concession of regular bail vide order dated 14.01.2015 passed by the Additional Sessions Judge, Mohali, (Annexure P-2). After 14.01.2015, the petitioner was continuously appearing before the trial Court. However, he was wrongly declared as proclaimed person on 12.04.2018 and was arrested in the present case on 14.03.2023. Learned counsel for the petitioner further contends that he is in custody for the last more than 07 months and his further custody will not serve any meaningful purpose. Learned counsel for the petitioner further submits that one more case under Section 304-A IPC is pending against him and he is on bail in that case.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner remained a proclaimed person for the last 05 years. He, however, submits that one more case under Section 304-A IPC is pending against the present petitioner and he is on bail in that case.

5. I have heard learned counsel for the parties and perused the record.

6. It is not in dispute that the petitioner was earlier on bail and was appearing before the trial Court. However, he absented himself during the trial and was declared as proclaimed person. Now the petitioner is in custody for the last for more than 07 months. Since, the petitioner has already suffered incarceration for more than 7 months, his further custody will serve no meaningful purpose.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.

(vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st and 3rd Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

20.10.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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