

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

210

CRM-M-29567-2022

Date of Decision : January 05, 2023

Tarsem Singh

-Petitioner

VERSUS

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Subhash Kumar, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab..

KULDEEP TIWARI. J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner in case FIR No.54 dated 08.04.2022, registered under Sections 365 and 395 of IPC, at P.S. Division No.2, (Mamoon Cantt. Pathankot), District Pathankot, during the pendency of the trial.

The prosecution agency was set into motion on the statement of Harbans Lal (complainant), wherein he stated himself to be a cloth merchant at Ludhiana. He further stated that he had started construction of his house at his native place in Himachal Pradesh and the entire construction material reaches at the construction site only through horse-carts. On 3/4 March, 2022, 2-3 persons, claiming themselves to be iron dealers of Pathankot, contacted his horse-man and they gave their Mobile No.70874-97737 to him with the request to pass it to the complainant if he wants to purchase iron at cheap rates. However, the complainant did

not make any phone call on the aforesaid mobile number. On 14/15 March, 2022, the aforesaid persons telephonically contacted the aforesaid horseman and asked him to arrange a meeting with the complainant, whereupon, on 17.03.2022, the complainant contacted them on Mobile No.90419-47954 and they allured the complainant on the pretext to supply iron at cheap rates. The complainant got trapped in the allurements of the aforesaid persons and on 18.03.2022, he along with his son-in-law, namely, Raman Kumar went to Pathankot, on his Aactiva bearing No.HP-38-G-4715, with cash amount of Rs.2,05,000/-. When the complainant reached at Simbal Chowk, Pathankot, he received a phone call from the aforesaid mobile number and the caller told him that they are present in an Innova Car, bearing No.PB-13-AQ-5448, parked at some distance after crossing the Railway Line. Accordingly, the complainant and his son-in-law reached there and parked their Aactiva outside a tea shop. The aforesaid person told them to accompany them to their godown in their aforesaid Innova car and they sat in the car. When they reached a little behind Radha Swami Satsang House, a Swift car came from behind, which stopped their Innova car and two persons, in police uniform, alighted from the swift car and they abused the person sitting on conductor seat and also slapped him and said that he is a robber. These persons asked the complainant and his son-in-law to remain seated in the car and the aforesaid persons took the vehicle towards Damtal and they snatched Rs.1,55,000/- and one mobile, having Sim No.98828-77475 from his son-in-law and also snatched Rs.50,000/- from complainant, which were in his pocket.

On the basis of above statement, the present FIR was registered and the petitioner was arrested on 25.04.2022.

Learned counsel for the petitioner stated that the petitioner is an employee of the iron contractor, who had made phone calls to the complainant number of times and the role of the petitioner is confined only to the effect that he went in the Innova car to bring the complainant and his son-in-law to the shop of iron contractor, for the purpose of purchasing iron bars (Saria). He further stated the alleged occurrence took place on 18.03.2022, however, the present FIR was registered on 08.04.2022, therefore, there is considerable delay in lodging the FIR. He also stated that even if the allegations, as levelled by the prosecution are considered as a gospel truth, no offence under Sections 365 and 395 IPC is made out qua the present petitioner. He also submitted that the petitioner has been nominated in the present case on the basis of disclosure statement of co-accused suffered in FIR No.38 dated 07.04.2022, registered under Sections 379-B, 420, 467, 468, 170, 171, 120-B IPC, at P.S. Shahpurkandi, District Pathankot, however, nothing has been recovered from him. The prosecution has cited total 19 witnesses to substantiate the allegations against the accused persons, however, no witness has been examined as of today. He further stated the petitioner has suffered sufficient incarceration as he is behind the bars since 25.04.2022 and the trial is not likely to conclude any time soon.

On the other hand, the learned State counsel opposed the bail application and also filed the status report by way of affidavit of Lakhwinder Singh, PPS, Deputy Superintendent of Police (City),

Pathankot, in the Court, which is taken on record. As per the status report, during investigation, six persons, namely, Sunil Kumar, Tarsem Singh (present petitioner), Satbir Singh Gill, Inspector Manjit Singh, Ashwani Kumar and Lal Singh, were arrested in FIR No.38 dated 07.04.2022, registered under Sections 379-B, 420, 467, 468, 170, 171, 120-B IPC, at P.S. Shahpurkandi, District Pathankot and these persons confessed to have committed the present crime. Fresh custody certificate of the petitioner is also filed by learned State counsel, which is taken on record.

Considering the fact that there is no progress in the trial as no witness has been examined so far, out of total 19 witnesses, and the period of incarceration undergone i.e. 08 months 13 days, I deem it appropriate to grant the benefit of regular bail to the petitioner as it is not in the interest of justice to keep the petitioner behind the bars for indefinite period since the trial is not likely to conclude in the near future. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

January 05, 2023
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No