

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31113-2020 (O&M)

Date of Decision: 03.08.2023

Sukhwinder Singh @ Nimma

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The present petition has been filed under Section 439 of Cr.P.C., praying for grant of regular bail to the petitioner in case FIR No.152 dated 23.09.2019, registered under Sections 379-B, 307, 115, 109, 120-B of IPC and Section 25 of Arms Act, 1959 (Sections 307, 115, 109, 120-B of IPC and Section 25 of Arms Act added later on), at Police Station Kartarpur, District Jalandhar (Rural).

2. On 24.11.2020, a Co-ordinate Bench of this Court had passed the following order:-

“Learned counsel for the petitioner submits that as regards the allegations of the commission of offences punishable under Sections 307, 109, 115, 120-B of the IPC and Section 25 of the Arms Act, 1959, as a matter of fact those are offences transposed from another FIR onto the FIR in question in which actually the petitioner was only apprehended on the allegation that he had committed an offence punishable under Section 379-B of the Code.

Learned State counsel submits that the offences punishable under Sections 307 etc. have now been deleted from the FIR, with only the offence punishable under Section 379-B of the IPC still continuing to be existent.

Counsel for the petitioner however submits that even the said offence is actually wholly planted on the petitioner as has also been observed by a co-ordinate Bench while admitting two co-accused of the petitioner to bail on August 24, 2020, upon them having been filed CRM-M-23416 of 2020.

That order is reproduced hereinbelow:-

“The present petition has been filed by the petitioners under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.152 dated 23.09.2019 registered under Sections 379-B, 307, 115, 109 & 120-B IPC and Section 25 of the Arms Act (offences under Sections 307, 115, 109 & 120-B IPC and Section 25 of the Arms Act, were added later on) at Police Station Kartarpur, District Jalandhar (Rural).

It is contended by the counsel for the petitioners that the case against the petitioners is totally concocted. The police have created the present case against the petitioners only to show as solved an otherwise unsolved case registered earlier under Section 307 IPC. The same earlier incident has been invoked by police in the present case as well, to create a second FIR under Section 307 IPC. Even as per the prosecution, the allegation of snatching of `3.5 lacs from the complainant is against one Sukhwinder Singh. An amount of `3.25 lacs is alleged to have been recovered from him; as well. Although a false recovery of Rs.24,500, has been fabricated against petitioner No.1, however, there is not even any recovery from petitioner No.2. Still further it is submitted that the petitioners are in custody since 29.09.2019. The petitioners are already on bail in above said another case registered under Section 307 IPC. There

is no other case against the petitioners qua snatching or theft. The challan has already been filed in this case. Hence, the petitioners are not required for any investigation purposes.

Notice of motion.

Mr. Pawan Sharda, Sr. DAG, Punjab, accepts notice on behalf of the State.

The learned counsel for the State, on instructions, submits that the petitioners are habitual offenders. There is another case against the petitioners under Section 307 IPC. In the present case also the recovery has been effected from petitioner No.1. However, it is not disputed that in the above said another case under Section 307 IPC the petitioners are on bail and that there is no other case against the petitioners qua any snatching or theft. It is also not disputed that the petitioners are in custody since 29.09.2019 and that the challan has already been filed.

In view of the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioners are ordered to be released on bail pending trial subject to their furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.”

Though learned State counsel opposes the petitioner being admitted to bail, however, in view of the above, the petitioner is ordered to be admitted to interim bail to the satisfaction of the trial court/CJM/Duty Magistrate concerned.”

3. I have heard learned counsel for the parties and perused the record with their able assistance.

4. It is not in dispute that the petitioner remained in custody in the present case for more than 01 year and 2 months. Vide order dated 24.11.2020,

he was ordered to be released on interim bail, during the pendency of the trial and there is no allegation of any misuse the concession of interim bail granted to him.

5. Consequently, the interim order dated 24.11.2020 is made absolute and the petitioner is ordered to be admitted to bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned. The petitioner shall continue to appear before the learned trial Court on each and every date of hearing.
6. All pending applications, if any, are also disposed off.

03.08.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No