

CRM-M-31301-2023 (O&M)
Date of Decision: 26.07.2023

Vs.

Ms. Niharika Gupta, Advocate with
Ms. Manpreet, Advocate
for the complainant.

2. As per the case of the prosecution, the FIR in the present case was registered against the petitioner on the basis of the statement made by Sanjiv Loomba, The complainant alleged that the petitioner was working in his factory as a Manager and about 7/8 months ago, he came to know that the petitioner used to keep the clothes at some secret place in his factory and sold the same later on and had also kept some rolls of cloths, jackets, coats etc. at his house as well and if raid was conducted, the stolen material could be recovered from the

petitioner. With these main allegations, the FIR was registered against the petitioner.

3. Learned counsel for the petitioner contends that the petitioner had worked as a Manager for about six years in the factory of the complainant. About 7/8 months ago, prior to Diwali of 2022, the petitioner had left the job in the factory of the complainant. Even the father of the petitioner had also resigned from his job due to his health problems. Thereafter, the petitioner purchased seven machines for a sum of Rs.92,000/- and started the work of stitching T-shirts, lowers etc. and was having a business of these items. Due to this, the complainant felt offended and got the petitioner falsely involved in the present case. The petitioner purchased clothes from different firms and the bills in this regard have been annexed as Annexures P-2 with the present petition. Learned counsel for the petitioner contends that as per the admitted case of the complainant, the present petitioner had allegedly stolen pieces of clothes of 100 metres about 7/8 months ago, and it is surprising that the complainant did not come to know about this at that time. Apart from that, on 09.05.2023, a raid was conducted at the premises of the petitioner and five machines belonging to the petitioner were taken into possession by the Investigating Officer. Even the CCTV footage of taking out the machines and loading the same into truck by the police illegally, has been annexed as Annexure P-10 with the present petition. Even certain photographs have been annexed as annexures with the present petition to show that the police had illegally taken away the receipts of purchases of machines by the petitioner lying in his house. Thus, it is apparent that the police was hand in glove with the complainant and the version of the prosecution is highly improbable. Learned counsel further contends that

petitioner was arrested in the present case on 09.05.2023 and all the offences are triable by the Court of Magistrate.

4. On the other hand learned State counsel assisted by learned counsel for the complainant have vehemently opposed the bail application of the petitioner on the ground that the petitioner had committed serious offence and is not entitled for concession of bail.

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

6. It is not in dispute that the complainant was owner of the factory, in which the petitioner was employed about 7/8 months ago and he allegedly came to know about the theft of clothes from the factory. However, he got the F.I.R registered after a long delay and no explanation has been offered for the inordinate delay. Apart from that, it is evident from the photographs Annexures P-4 to P-14 that the police had removed several machines and other articles from the factories/premises of the present petitioner. Thus, the recovery, if any, has already been effected by the police. Apart from that, the petitioner is in custody since 09.05.2023 and his further custody will serve no meaningful purpose. Apart from that, all the offences are triable by the Court of Magistrate and the conclusion of the trial may quite take long time.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

8. The above observations have been made only for the limited purpose of disposal of the present bail application before this court and shall not

be construed as an expression of opinion on the merits of the case.

9. All other pending applications, if any, are also disposed of, accordingly.

26.07.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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