

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34007OF 2023 (O&M)
DATE OF DECISION: 21.07.2023

Irfan Khan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Surinder Kaur, Advocate,
For the petitioner.

Mr. Virat Rana, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner, seeks bail in case bearing FIR No.02 dated 04.01.2023, registered under Section 379-B of Indian Penal Code, 1860(Sections 411, 201 read with Section 34 IPC added later on) at Police Station, Division No.4, Patiala, District Patiala.

2. Per FIR, on 03.01.2023 at about 2:30 p.m., complainant along with his wife was having *langar* near bus stand, when two unknown persons came and one of them snatched his mobile phone from his hand. They then ran away in different directions. FIR was registered on his complaint. Investigation was carried out. Petitioner was arrested as suspect on 04.01.2023.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in the case. Petitioner was not even present at the crime scene. Alleged recovery was planted on him. In any case, nothing is now to be recovered from him. There is unexplained delay of 24 hours in registration of FIR. He would further argue that challan has been presented and charges have been framed. Custodial interrogation of petitioner is not required. He is not involved in any other case.

4.1 Learned counsel would further argue that Raj Kumar, co-accused of petitioner, has already been granted concession of regular bail vide order

dated 20.07.2023 passed by this Court. Petitioner is thus entitled to bail, on the ground of parity alone.

5. On the other hand, learned State counsel, on instructions from ASI Satvir Singh, opposes the bail petition on the ground that in case petitioner is released on bail, there is apprehension that he will flee, as he belongs to Jharkhand.

6. I have heard rival contentions of learned counsels.

7. After filing of Challan, even charges have also been framed. Investigation is thus complete and petitioner is not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time, as there are total 13 witnesses and none examined yet. Whereas, petitioner has already been languishing in jail for the past more than six and a half months in preventive custody, being behind the bars since 04.01.2023. He is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses, particularly when he has clean antecedents.

7.1 Petitioner is stated to be a 27-year young man, and his continued incarceration will severely jeopardize his career in getting employment. He is sole breadwinner having old parents to look after, who are living in sheer penury in his absence. Being a family man having fixed abode with clean antecedents, as there is no other case pending against him, it is unlikely that he will flee from the trial proceedings.

8. Considering the overall scenario and given that similarly situated co-accused Raj Kumar has been extended the concession of bail, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

9. 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.

10. In case, petitioner is found to be 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.

11. 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 hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

12. Pending application(s), if any, shall also stand disposed of.

JULY 21, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No