

214

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-41057-2023 (O&M)
Date of decision: 25.08.2023

Ravi Gupta ...Petitioner
VS
State of Punjab ...Respondent

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr. Ketan Chopra, Advocate,
For the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Aggrieved on being declined bail by learned trial Court, petitioner seeks his release as an undertrial in a case bearing FIR No.256 dated 11.11.2022, registered under Sections 379-B read with Section 34 of the Indian Penal Code at Police Station, Moti Nagar, Ludhiana.

2. FIR was registered on the statement of complainant Parmila wife of Rajesh Kumar. She stated that on 11.11.2022 at about 6:00 p.m., when was waiting for an auto rickshaw at Cheema Chowk, Ludhiana, three persons came on a motorcycle and one of them alighted, threatened her by pointing a *daat* and forcibly snatched her mobile phone. She raised noise and people present on the spot tried to stop the motorcycle and dragged two persons namely, Ravi Gupta (present petitioner) and Lakhan from the motorcycle. But the motorcycle rider Param succeeded to flee from the spot. Both the persons were handed over to the police. Based on statement of complainant, *ruqa* was prepared and FIR was registered. Petitioner was arrested on 11.11.2022 and since then he is in custody.

3. Learned counsel for petitioner submits that alleged recovery of *daat* which is stated to be effected from petitioner is rather planted upon the petitioner and same has been done to falsely rope in the petitioner. No independent witness was made party to corroborate the alleged recovery despite the fact that petitioner was apprehended from a crowded place.

3.1 Learned counsel also submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses.

3.2 Learned counsel for the petitioner submits that another case is though pending against the petitioner in which he was declared a proclaimed person and a petition for quashing of the same is pending in this court for 29.08.2023. In the said petition, State has given a reply disclosing that an application for recalling the PO order dated 13.03.2023 has been moved by police as the petitioner was wrongly declared as proclaimed person, while he was in custody in present case.

4. On a Court query, learned State counsel does not controvert the aforesaid submissions qua PO order being in the process of recalling.

4.1 However, learned State counsel opposes the instant bail petition. She submits that in case, petitioner is granted concession of bail, there are chances of his fleeing from justice. She informs that petitioner is involved in one more case FIR No.214 of 2019 under Section 379B read with Section 34 IPC of Police Station, Moti Nagar, Ludhiana.

5. I have heard rival contentions of learned counsels for the parties and gone through the case file.

6. Learned State counsel, on instructions from ASI Anil Kumar, submits that challan was filed on 09.01.2023 and charges were framed on 10.03.2023. Investigation *qua* petitioner is complete, therefore, custodial interrogation of the petitioner is not required. Allegations against petitioner are a matter of trial at this stage. Out of 08 prosecution witnesses, one has been examined so far. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the more than 09½ months days, being behind bars since 11.11.2022.

7. Petitioner 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. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.
8. Petitioner is stated to be working as helper at the tea stall owned by his widowed mother. Having a family to look after and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
9. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.
10. 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.
11. In case, petitioner is found 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.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

25.08.2023
Vandana

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