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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**  
**CRM-M-42527-2023(O&M)**  
**Date of decision: 01.09.2023**

Jaya Parkash @ Jayaprakash Mishra @ Tinku ...Petitioner  
VS  
State of Punjab ...Respondent

**CORAM: HON'BLE MR.JUSTICE ARUN MONGA**

Present: Mr. Abhishek Khullar, Advocate,  
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

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**ARUN MONGA, J. (ORAL)**

Aggrieved on being declined bail by learned trial Court, petitioner seeks his release as an undertrial in case bearing FIR No.19 dated 25.02.2023, registered under Sections 379-(B) 2 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station, Jodhewal, District Ludhiana.

2. FIR was registered on the basis of secret information that Kashmiri Lal and Jai Parkash are habitual of snatching valuables from passers by after giving threat of iron *datar*. On the day of information, they were roaming around on motorcycle. Believing information to be true, *ruqa* was sent. Picket was installed, they can be apprehended on 25.02.2023.

3. Learned counsel for petitioner submits that no recovery has been effected from the petitioner. FIR was registered on the basis of an alleged secret information. There is nothing substantial to implicate the petitioner in the FIR. Learned counsel for the petitioner submits that co-accused namely Kashmiri Lal alias Rana has been granted concession of regular bail by learned Additional Sessions Judge, Ludhiana vide order dated 24.05.2023. Identical role was attributed to both Kashmiri Lal and the petitioner. Both were apprehended from the same motorcycle, as per allegations in the FIR, contends the learned counsel, yet petitioner is languishing in jail. Petitioner has been falsely implicated.

4. On the other hand, learned State counsel opposes the bail petition. He submits that one mobile phone and one *datar* was recovered from the petitioner. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He is a habitual offender. He submits that two other cases of similar nature are pending against the petitioner, however, he is on bail in those cases, per custody certificate.

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

6. On a Court query, if mobile phone which is alleged to have been recovered from the petitioner, whether its ownership was got verified during interrogation and/or during the period petitioner has been in custody, on instructions from ASI Gurpreet Singh, learned State counsel states that needful has not been done so far. It is merely on the basis of the presumption that petitioner, since could not produce purchase bill of mobile phone, he was taken into custody, given his antecedents of having been involved in two more cases of similar nature.

7. Learned State counsel on instructions further submits that challan was filed on 24.05.2023. Investigation *qua* petitioner is complete, therefore, custodial interrogation of the petitioner is not required. Allegations against the petitioner are matter of trial at this stage. Out of 11 prosecution witnesses, none has been examined. Commencement/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 more than 06 months, being behind bars since 25.02.2023.

8. 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.

9. Petitioner is stated to be 30-year old only bread earner of his family, who is living in sheer penury in his absence. He has already lost his livelihood due to prolonged incarceration. Petitioner is not flight risk in any manner, given that he has a family to look after and has a fixed abode.
10. Co-accused Kashmiri Lal has already been granted concession of bail by learned Court below.
11. 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.
12. Accordingly, petitioner is ordered to be released on bail, in case on required in any other case, 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.
13. 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.
14. 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.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)  
JUDGE

01.09.2023

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No