

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-47562-2022 (O & M)****Date of decision:16.02.2022**

Ramjan @ Lala

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karan Kaushal, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in a case FIR No.189 dated 24.06.2022 under Sections 34, 365 and 379-B IPC later amended to Sections 365, 392, 394, 419, 476, 120-B and 34 IPC at Police Station 40, District Gurugram, Haryana.

2. The brief facts of the case are that the complainant-Munish Kumar, received a call on his mobile phone from a person who asked for 10 Processors. His associates Sandeep took 10 Processors to Huda City Centre and sold it for Rs.14,000/-. The purchaser of the Processors introduced himself as Balwinder. On 22.06.2022, he got a call from the same number wherein the person asked for 150PCS RAM and 150 PCS Processors. Pursuant thereto on 23.06.2022 at 4.00 p.m., the said person transferred Rs.5000/- in the account of the complainant. After the said transaction, he (complainant) alongwith his associate Sandeep proceeded towards HUDA

his car make Wagon R bearing registration No.PB 11 BT 5084. Balwinder started counting the number of Processors and RAM. At that time, three more persons came to the spot. One person was wearing a Delhi Police uniform. The said persons alongwith Balwinder suddenly started beating them (complainant party) and snatched there respective phones. After driving some distance, they pushed the complaint out of the car. Thereafter, the four accused escaped with their RAM, Processors and respective mobiles which are Redmi 111 with cell No.9105561817, 9560224205 alongwith Sandeep's mobile VIVO 20 with cell No.8920808891, 8750008646.

Pursuant to the registration of the FIR, accused Jaswinder Singh was arrested on 25.06.2022 and a mobile phone Oppo Reno 7 Pro was recovered from his possession. Thereafter, one accused Naveen @ Shabd @ Golu Chauhan and Avesh @ Avi (since granted bail vide order dated 13.09.2022 passed in CRM-M-41034-2022) were arrested from Nehru Place, Delhi. One mobile phone Google Pixel was recovered from the accused-Naveen and one mobile phone Oppo A7 was recovered from the accused-Avesh. They also got recovered a Swift car bearing registration No.DL-5C-S4691 alongwith 30 CPUs and Rs.11,500/-.

Thereafter, the petitioner Ramjan @ Lala and co-accused Govind Singh were arrested on 26.06.2022 from Shahbad, District Alwar (Rajasthan). One mobile Vivo Y 12 was recovered from accused Govind. The petitioner got recovered 03 RAM devices and accused Govind got recovered 05 Processors.

Accused Naveen and Avesh further got recovered 120 RAM devices and 100 Processors. Accused Jaswinder got recovered 27 RAM devices.

Accused Subhash Kumar was arrested on 28.06.2022.

On 05.07.2022, the test identification parade of the petitioner-Ramjan @ Lala and co-accused Jaswinder Singh, Govind Singh was conducted and the complainant Manish and his companion Sandeep identified them as the main accused in the present occurrence. The bank statements of the accused-Jaswinder Singh and the complainant Manish were obtained alongwith a Certificate under Section 65-B of the Evidence Act. The case property and vehicle in question were released on superdari to the original owner Vid Parkash.

Accused-Shubham Sharma was joined in the investigation, and thereafter, Section 411 IPC was added in the present case. Accused-Sikender is yet to be arrested.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR. He has been named in the disclosure statement of his co-accused Jaswinder Singh @ Balwinder. In fact, his arrest has been shown from Alwar without informing the Rajasthan Police. Therefore, this inter-State arrest of the petitioner was illegal in terms of the Article 22(2) of the Constitution of India. The co-accused of the petitioner, namely, Avesh @ Avi had been granted the concession of bail by this Court vide order dated 13.09.2022. The petitioner was entitled to the similar relief. Even otherwise, as none of the 20 prosecution witnesses had been examined so far and the petitioner was a first-time offender, his further incarceration was not required.

4. The learned counsel for the State, on the other hand, while referring to the reply dated 15.02.2023 contends that the petitioner is, in fact, one of the main accused. He got recovered 03 RAM devices alongwith a mobile phone. Merely because the petitioner was arrested from Rajasthan

seriousness of the allegations, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner is a first-time offender, is in custody since 26.06.2022 and none of the 20 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is in custody since 26.06.2022. None of the 20 prosecution witnesses have been examined so far. There is nothing to suggest that the petitioner will either abscond, tamper with the evidence or influence any witness, if he is granted the concession of bail. Therefore, the case is covered by the ratio of judgment passed by this Court in the case of **“Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022),** wherein this Court has stated that broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. Even otherwise, the co-accused of the petitioner, namely, Avesh @ Avi has been granted the concession of bail by this Court vide order dated 13.09.2022.

7. In view of the aforementioned facts and also the fact that the investigation already stands completed, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ramjan @ Lala is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one.

9. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

February 16, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No