

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204

CRM-M-47014-2022

Date of decision: 27.04.2023

Imran

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Akshay Jindal, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.167 dated 22.04.2022 under Sections 407 of the IPC (Section 379, 411 and 120B of the IPC added lateron) registered at Police Station Furrukh Nagar, District Gurugram.

2. Learned counsel appearing for the petitioner *inter alia* contends that it is a case of false implication of the petitioner which is evident from the fact that on the date when the occurrence in question took place, he was in custody in another case, which too was registered at the same police station, as the one in the FIR in question. While drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, learned counsel submits that the seal of a container which was going from Gurugram to Hyderabad was found broken and 362 boxes which were loaded inside containing electronic goods were found missing. Allegedly the driver of the

container namely co-accused Mukeem had committed theft. Learned counsel submits that nowhere was any suspicion raised qua the involvement of the petitioner as admittedly the petitioner was not even named in the FIR in question. Learned counsel further submits that it was on the basis of a disclosure statement suffered by co-accused Mukeem, the petitioner was nominated as an accused. He submits that the evidentiary value of the disclosure statement allegedly suffered by co-accused Mukeem admittedly was of a weak nature. Learned counsel has still further submitted that the false implication of the petitioner in the case in hand finds further credence from the fact that the prosecution had come up contrary versions with respect to the alleged role of the petitioner in the crime in question as on the one hand in its reply filed in the bail application before the learned Court of Sessions, it had been stated that co-accused Mukeem had stolen mobile phones from the container and thereafter sold to one Tanku Kishore, however, on the other hand while filing their reply before this Court it had been stated that the petitioner had purchased the stolen mobile phones from co-accused Mukeem. Learned counsel submits that nothing is required to be recovered from the petitioner and still further the petitioner is willing to join investigation and cooperate with the investigating agency.

3. Status report by way of affidavit of Harinder Kumar, HPS, Assistant Commissioner of Police, Pataudi, Gurugram, has been filed in the Court today which is taken on record subject to all just exceptions.

4. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite. Learned

State counsel has submitted that the petitioner along with co-accused Mukeem had stolen 362 boxes containing the following:-

i.	Apple I Phone 13 Max Pro	-	10
ii.	Redmi Note 10 Pro	-	196
iii.	Apple Watch Series 7	-	6
iv.	Samsung Galaxy M12	-	45
v.	Apple I pad 10.2 Inch	-	30
vi.	IQ00Z6 5G Mobile	-	61
vii.	Asus TVF Gaming F15 Laptop	-	1
viii.	Portronics Earphone	-	10
ix.	Sony WI-SP5 10 Headphone	-	2
x.	Apple Earpods	-	1

5. Learned State counsel submits that no doubt the petitioner was not named in the FIR in question as it was not the case of the prosecution that he was driving the container from Gurugram to Hyderabad or was present with co-accused Mukeem. However, the name of the petitioner surfaced in the disclosure statement recorded by co-accused Mukeem pursuant to which stolen mobile phones which had been packed into 362 boxes were recovered from different persons. While drawing the attention of this Court to paragraph 7 of the reply, it was further argued by learned State counsel that co-accused Tanku Kishore who was already in custody in another FIR No.122 of 2022 under Sections 407, 379, 411 and 120-B of the IPC registered at Police Station Farrukhnagar, Gurugram, suffered a disclosure statement wherein the role of the present petitioner came to the fore. Learned

State counsel submitted that the present petitioner had given Samsung Galaxy M12 mobile phones to co-accused Tanku sharma, who in turn sold them to different persons. Learned State counsel has further submitted that the petitioner has a criminal past and is involved in as many as 09 other criminal cases including some cases of similar nature which clearly indicate that he is a habitual offender. A prayer has, therefore, been made by learned State counsel for dismissal of the instant petition as the custodial interrogation of the petitioner is required.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. Prima facie, the petitioner comes across to be a habitual offender. This Court concurs with the submissions made by learned State counsel that since the petitioner is involved in 09 more cases of similar nature, his custodial interrogation would be necessary. The petitioner, therefore, does not deserve the extraordinary concession of anticipatory bail.

8. Dismissed.

9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

27.04.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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