

CRM-M-47174-2022
Date of Decision: 16.02.2023

Versus

Rajesh Bhardwaj, J. (ORAL)

Adumbrated facts of the case are that the complaint was lodged on the statement of Hayaat son of Sulemaan, wherein it was alleged that on 06.08.2017 at about 3:00 pm he took the truck bearing No.HR-69-0005, on which he was driver, and left for Bilaspur from Panipat. However, in the night at about 10:00 pm, when he opened window of the vehicle, 2-3 boys came from behind and pushed him out of the truck and forcibly snatched the key of the truck. He informed the owner of the truck regarding the same and thereafter, lodged the present complaint. On the basis of the complaint, FIR was registered and investigation commenced. The truck stolen was recovered by the Investigating Agency. Thereafter, the petitioner was arrested by the Investigating Agency on 09.08.2017 and he was granted bail by the learned Additional Sessions Judge on 01.11.2017. However, the petitioner jumped the bail and was declared proclaimed offender vide order dated 26.07.2021 and FIR No.326 dated 07.12.2021 was registered under

Section 174-A IPC against him. The petitioner was again arrested on 05.01.2022 and approached the Court of learned Addl. Sessions Judge, Jhajjar for grant of bail, who, after hearing the parties, declined the same vide order dated 01.09.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that the petitioner was not named in the FIR, however, thereafter he was falsely implicated in this case. He submits that after his arrest on 09.08.2017, the learned trial Court granted him bail after about three months. He submits that as the petitioner remained absent from the Court, he was declared proclaimed offender on 26.07.2021 and thereafter, he was arrested on 05.01.2022. He submits that FIR No.326 dated 07.12.2021 under Section 174-A IPC was registered against the petitioner, wherein, he was convicted for the period already undergone by him. He submits that the petitioner is now behind the bars since 05.01.2022 and majority of the prosecution witnesses has already been examined and thus, the petitioner is not in a position to tamper with the prosecution evidence. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that though the petitioner was granted bail, however, he misused the concession of bail and thus, declared proclaimed offender. He submits that the petitioner was also convicted in FIR No.326 dated 07.12.2021 registered under Section 174-A IPC. He submits that there were three accused in this

case, out of which one accused has died and other co-accused has already been released on bail. He submits that in all there are 10 prosecution witnesses, out of which 5 witnesses stand examined.

Heard.

Evidently, the petitioner was not named in the FIR, however, on his arrest he was granted bail by the trial Court. However, as he remained absent, he was declared proclaimed offender. Though, the petitioner was convicted in FIR No.326 dated 07.12.2021 registered under Section 174-A IPC, however, sentence was already undergone by him. The petitioner is behind bars from the last more than one year and prosecution has examined half of the prosecution witnesses. Co-accused has already been granted bail. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

16.02.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No