

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-45389-2023 (O&M)

Date of decision: 20.09.2023

Pankaj Kumar @ Panku

...Petitioner

VS

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr. Gaurav Partap S.Pathania, Advocate,
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

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.0024 dated 12.02.2023, registered under Sections 379-B (2) read with Section 34 of the Indian Penal Code at Police Station, Division No.2, Pathankot, District Pathankot.

2. Per prosecution version, FIR was registered on the statement of complainant Harjot wife of Sugandh Kumar that two unknown persons snatched a chain from her neck on 12.02.2023 while she was on way home from market. Petitioner was arrested on same day i.e. 12.02.2023 and is in custody since then.

3. Learned counsel for petitioner submits that FIR is false and without an iota of truth. No offence is made out against the petitioner as per alleged version of the FIR. Description of the petitioner does not find mention in the FIR. No recovery has been effected from the petitioner. Petitioner has thus been falsely implicated.

3.1 He further submits that co-accused, namely, Jatinder Kumar @ Sonu has already been granted concession of regular bail by this Court vide order dated 21.08.2023 (Annexure P-2) passed in CRM-M-24494-2023.

3.2 He further submits that petitioner is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/ or

influencing prosecution witnesses. Further contends that out of 11 prosecution witnesses, none has been examined.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious crime. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. He, however, submits that no other case is pending against him.

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

6. On a Court query, learned State counsel on instructions from ASI Vimal Kumar, submits that challan was filed on 12.04.2023, charges have been framed on 22.05.2023. There are 11 prosecution witnesses, none has been examined. Investigation *qua* petitioner is complete, therefore, custodial interrogation of the petitioner is not required. Nothing is to be recovered from the petitioner.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Whereas, petitioner has already been languishing in jail for the past more than 07 months in preventive custody, being behind bars since 12.02.2023.

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 32-year old family person having wife and children, who are totally dependent on him and in his absence, they are living in sheer penury. Being a married person with family responsibilities, clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

10. Co-accused of petitioner have already been granted the concession of bail by this Court.
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 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

20.09.2023
Vandana

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No