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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40912-2019 (O&M)

Date of decision : 09.10.2023

Gurjeevan and another

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ashish Gupta, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail pending trial to the petitioner in FIR No.597 dated 25.07.2019, under Section 379 of the Indian Penal Code, 1860 (*for short 'the IPC'*), registered at Police Station Civil Lines, Karnal.

2. Allegations are that the petitioners committed theft of motorcycle of the complainant.

3. The Coordinate Bench on 11.12.2019, granted interim bail to the petitioner on, in the following manner:-

“Pursuant to the order dated 27.11.2019, an affidavit of Sh. Virender Singh, HPS, Deputy Superintendent of Police (Headquarter), Karnal, has been filed in Court today, which is ordered to be taken on record.

It is stated therein that tower location of the mobile phone of ASI Rohtash was found to be near the DAV Senior Secondary School, Karnal, at 03:58 p.m. and 04:50 p.m.

It has further been stated that Chirao Mod is at a distance of about 04 kilometers from the said school.

Further, the tower location of the mobile phone of Head Constable Suraj Bhan was found to be at Sector 14 Karnal at 08:52 a.m. and then at 04:49 p.m. near the DAV school, with the mobile phone location of EASI Suresh found to be a Chirao Mod at 11:00 a.m., and thereafter at Chandana at 12:49 p.m., and thereafter, at 07:33 p.m., at Prem Colony.

Similarly, the tower location of EASI Om Parkash was found to be at 'Mahila Ashram' opposite the Bus Stand Karnal, at 12:48 p.m. and on the same day at 04:39 p.m. at D.A.V. Senior Secondary School, Shakti Colony, Karnal.

In the aforesaid situation, without making any comment at this stage, as to whether the contention of the petitioners to the effect that they have been falsely implicated and were actually not arrested at Chirao Mod, they are ordered to be admitted to interim bail to the satisfaction of the trial Court, till the next date of hearing before this Court.

Adjourned to 20.01.2020.

The Superintendent of Police, Karnal, is directed to enquire into the matter, by naturally joining necessary persons from the concerned mobile companies (and other mobile companies also if necessary), in order to determine the range of a mobile tower, keeping in view the fact that there may be other mobile towers of the same company, in between in a range of 04 kilometers.

It is to be noticed that the petitioners have been in custody for the past about 03 months, with the report under Section 173 Cr.P.C. having been presented to the competent Court.

A copy of this order be given to learned State counsel under the signatures of the Bench Secretary of this Court.”

4. Learned counsel for the petitioners, at the outset, submits that petitioner No.1 died on 18.08.2023; therefore, present petition qua him may be disposed of as having been rendered infructuous.

Ordered accordingly.

5. Further contends that petitioners were granted interim bail by the Coordinate Bench on 11.12.2019 and petitioner No.2 is regularly appearing before learned trial Court. Also contends that there is no apprehension of pressurizing the prosecution witnesses or that petitioner is likely to hamper the trial, in case released on bail.

6. Learned State Counsel, after obtaining instructions, is not in a position to controvert the above contentions.

7. Heard learned counsel for both the sides and perused the paper book.

8. It transpires that both the petitioners were granted interim bail on 11.12.2019 and petitioner No.2 is regularly appearing before the Court below. There is no allegation that he is likely to misuse the concession of bail or hamper the proceedings in any manner before learned trial Court in case his interim bail is made absolute. Thus, in such a situation, sending him to custody at this stage would not serve any purpose.

9. Consequently, present petition is allowed. Interim bail granted to the petitioner No.2, vide order dated 11.12.2019, is made absolute. He shall be admitted to bail on furnishing fresh bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10. Petitioner shall appear on each & every date and fully co-operate with the learned trial Court without seeking any unnecessary adjournment(s).

11. The above observations may not be construed as an expression of opinion on the merits of the case.
12. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

09.10.2023
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned

:

Yes

/

No

Whether reportable

:

Yes

/

No