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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-45540-2023 (O&M)

Date of Decision: 19.09.2023

Jai Sharma @ Sukha Amritsariyan @ Kalu

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWATPresent: Mr. Ramnish Puri, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S. SHEKHAWAT, J. (ORAL)**CRM-38257-2023.**

Application is allowed as prayed for subject to just exceptions.

CRM-M-45540-2023

1. The petitioner has filed the instant petition under Section 439 of Cr.P.C. with a prayer to grant regular bail to him in case FIR No.129 dated 01.04.2023 registered under Sections 379-B IPC (Section 379, 411 added later on) and Section 28 of Arms Act (added later on) at Police Station Islamabad, District Amritsar.

2. The FIR in the present case was registered on the basis of the statement made by Jaswinder Singh son of Sucha Singh by alleging that at about 9.00 pm on 31.03.2023, he was going on a Activa Scooter from Prem Nagar to his house at Indira colony. On the way, four unknown boys had snatched his Activa Scooter and fled from the spot with his Activa. The

complainant had kept a sum of Rs.50,000/-, Aadhar Card, PAN Card, Copy of registration and bundle of keys alongwith ATM and mobile phone in the scooter. With these allegations, the FIR was got registered by the complainant.

3. Learned counsel for the petitioner submits that the FIR in the present case was registered against unknown persons and no physical description of any of the accused was mentioned in the FIR. He further contends that the petitioner has been falsely involved in the present case only on the basis of suspicion. He further contends that petitioner was arrested in FIR No.143 and after recording his disclosure statement in the said case, he has been involved in the present case as well. He further contends that the recovery of Rs.1,000/- was planted on him and the police could not find any incriminating evidence, which could even remotely suggest his involvement in the crime. He further contends that the petitioner was arrested in the present case on 15.04.2023 and is in custody since then. The investigation has been completed and his further custody would not serve any meaningful purpose.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that five more cases have already been registered against the present petitioner and the petitioner is a hardened criminal. Thus, the petitioner does not deserve the concession of bail by this Court.

5. I have heard learned counsel for the parties and perused the record.

6. From the record, it is evident that during the course of investigation, Jaswinder Singh, the complainant appeared before the police and submitted an affidavit (Annexure P-3) stating that the petitioner had not committed the said crime. Still further, the petitioner is continuing in custody

for the last more than 5 months and the recovery of only Rs.1,000/- has been effected from him. Still further, no doubt, five more FIRs have already been registered against the present petitioner, but the same cannot serve as a ground for dismissal of the bail application as the petitioner was able to make out a case for grant of bail in the facts and circumstances of the present case. Still further, to allay the apprehension expressed by learned State counsel regarding repetition of crime by the petitioner, stringent conditions can be imposed on the petitioner, while granting him the concession of bail.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned, subject to the following conditions:-

- (i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of*

place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) The petitioner shall report every 1st and 3rd Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

19.09.2023
hemlata

(N.S. SHEKHAWAT)
JUDGE

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