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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47597-2023 (O&M)

Date of decision: October 17, 2023

Vinay Pratap Singh

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Ms. Mukta Sharma, Advocate for petitioner.

Ms. Svaneel Jaswal, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Following the denial of bail by the learned trial Court, the petitioner is now before this Court seeking his release as an undertrial in a case FIR No.127 dated 13.03.2023, registered under Sections 379A, 201, 34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), at Sectors 13-17 Police Station, in Panipat.

2. According to the prosecution's account, on March 13, 2023, complainant Yash filed a complaint with the police, stating that on March 09, 2023, at about 09:30 am, he and his brother Raju were returning home after delivering milk. When they reached the helipad at Sector 13-17, two motorcyclists approached from behind and, after snatching his mobile phone, fled the scene. The SIM card in the snatched phone had the number 7206315559. Based on this complaint, a case under Section 379-A IPC was registered.

2.1. During the investigation, Vinay Partap Singh (the petitioner) and a child-in-conflict with the law were arrested/detained on 08.04.2023. The child-in-conflict with the law recovered the snatched mobile phone. As they had destroyed the SIM card of the snatched mobile phone, an offense under Section 201 read with Section 34 IPC was added.

3. Firstly, the learned counsel for the petitioner argues that the co-accused/child-in-conflict with the law, namely, Vikas, had already been granted bail by the Court below in an order dated 02.09.2023.

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3.1. Furthermore, learned counsel for the petitioner contends that the petitioner was not named in the FIR, and the complaint was filed after an unexplained delay of approximately 4 days. He points out that the complaint lacks details about the description of the mobile phone that was allegedly snatched, and there is no specific information about the specifications of the motorcycle used in the crime. He also notes that no test identification parade was conducted. The police apprehended the petitioner from Devi Lal Park, Panipat, on 08.04.2023, and no recovery was made from the petitioner after his arrest.

3.2. Finally, he contends that there is nothing to be recovered from the petitioner, and he is not required for further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses, and the petitioner is not involved in any other case.

4. On the contrary, learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. Also argues that the petitioner has committed a serious offense. On a Court query, he does not controvert the grant of bail to the co-accused/ child-in-conflict with law. He however, admits that petitioner is not involved in any other case.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, under instructions from SI Ram Kumar, learned State counsel informs that the challan has already been filed and charges were framed on September 05, 2023. Thus, the investigation regarding the petitioner is complete, and he is not required for custodial interrogation.

7. At this stage, the allegations against the petitioner are subject to trial. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Of the nine witnesses, none has been examined so far. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since April 08, 2023, for more than 06 months.

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8. The petitioner’s continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses. There is no probability of tampering with evidence as it has already been seized by the investigating agency.
9. Co-accused of the petitioner has already been granted bail by this Court, as aforesaid.
10. The petitioner is stated to be a 24-year-old young person and having a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
11. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served by keeping the petitioner in further preventive custody.
12. Accordingly, the petitioner is ordered to be released on bail, in case not required in any other case, upon furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, where his case is being tried, and in case he/she is not available, before the learned Duty Judge, as the case may be.
13. In case the petitioner is found involved or gets involved in any offense while on bail, the prosecution shall be at liberty to seek the 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 the merits of the case, as they are for the limited purpose of the bail hearing alone, and the learned trial Court shall proceed without being influenced by this order.
15. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 17, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No