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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-48987-2023****Date of Decision:03.10.2023**

Sumit

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Ms. Vini Mahajan, Advocate for
Ms. Renuka Arora, Advocate
for the petitioner.

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

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No. 185 dated 16.08.2023 registered under Section 379-B and 411 of IPC, at Police Station Division No.8, Jalandhar.

2. The FIR in the present case was registered on the basis of the statement made by Gulshan, complainant by alleging that on 16.08.2023, he was going on foot to his factory from his room and on the way, he received a call. While he was hearing the call, two clean shaved young persons came on a motorcycle bearing registration No.PB08-DT-3725, make Splendor of black colour and they had snatched his mobile phone having Sim No. 7740024049, IMEI No.851713861831054049891. The complainant raised hue and cry, however, the said persons succeeded in running away from the spot on their

motorcycle. It has been alleged that during the course of investigation, the petitioner was arrested in the present case on the same day itself i.e. on 16.08.2023.

3. Learned counsel for the petitioner contends that the alleged incident had taken place on 16.08.2023 and the petitioner was also arrested on 16.08.2023 without any incriminating evidence. Even no independent witness was examined to establish the identity of the petitioner. Even the petitioner is in custody since 16.08.2023 and the investigation is almost complete in the present case and the motorcycle and the mobile phone were recovered from the present petitioner.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner was arrested on the same day itself. Learned State counsel submits that the petitioner is the first offender and no other criminal case was registered against him.

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

7. From the record, it is evident that the petitioner was arrested on 16.08.2023 and is in custody since then. The mobile phone, which was allegedly snatched from the complainant and the motorcycle, which was used in the commission of crime, have already been recovered from the possession of the present petitioner. Thus, further custody of the petitioner will not serve any meaningful purpose. The petitioner is the first offender and his longer custody in jail would bring him in association with the criminals in jail and being a young boy, he is entitled to be released on bail.

8. As a consequence, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, 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 Monday of 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 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.

03.10.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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