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

**CRM-M-51701-2022
Date of Decision: 26.04.2023**

Raj Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ajay Singh, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER J. (ORAL)

Prayer in the present petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No.169, dated 25.05.2022, under Sections 393/34 of the Indian Penal Code (which was later on replaced with Section 379-A IPC), at Police Station Sector 14, District Gurugram.

2. A status report by way of affidavit of Kapil Ahlawat, H.P.S., Assistant Commissioner of Police, Old Gurugram on behalf of respondent/State of Haryana has been filed in this case which is already on record.

3. Custody certificate dated 25.04.2023 of the petitioner is filed by the learned State counsel in Court today and the same is taken on record, subject to all just exceptions.

4. Brief facts of the present case are that on 24.05.2022 at about 6:00 P.M., Parishit Sharma (complainant) was standing near old DLF, gate of Sector 14, suddenly two boys came on Activa Scooter bearing No.HR 26 ER 7360 and snatched away the mobile phone (Green Mint colored Samsung A22) along with SIM No.96269477359 of the complainant and went towards MG Road. Thereafter, with the help of a passer by, the complainant followed the Activa Scooter and caught them in front of Kaisifly shop. But both the boys managed to ran away from there after pushing the complainant, leaving behind the scooter along with the mobile phone of the complainant and mobile phone of the complainant got damaged. Accordingly, the present FIR was registered.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that the alleged scooter which was used in commission of the offence does not belong to the petitioner. It is further submitted that petitioner is not named in the present FIR nor is he involved in any other case. Learned counsel for the petitioner submits that the petitioner has been in custody since 25.05.2022; the investigation of the present case is complete, challan stands presented against the petitioner on 20.07.2022 and even charges have been framed on 12.09.2022. It is stated that out of 07 witnesses, no witness has been examined till date and the trial would take some time and the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence, however, it is not disputed that the petitioner has been in custody for 11 months (as on

25.04.2022), challan has already been presented on 20.07.2022 and charges have been framed on 12.09.2022. It is also not disputed that the petitioner is not involved in any other case.

7. I have heard learned counsel for the parties and perused the paper book, status report as well as custody certificate filed by learned State counsel, in Court today.

8. In this case, the petitioner is not named in the FIR and he has been in custody for 11 months (as on 25.04.2023), challan has already been presented and even charges have been framed. As per Status Report, there are 07 witnesses, however, no one has been examined. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period.

9. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity, during the pendency of the trial.

10. The petitioner shall appear before the police station concerned on first Monday of every month till the conclusion of the trial.

11. In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law, in case of the absence of the petitioner from trial without sufficient cause.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The petition is accordingly disposed of.

26.04.2023

Himani

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned	:	Yes/No
2. Whether reportable	:	Yes/No