

2023:PHHC:134460

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

**CRM-M-51217-2023
Date of Decision:16.10.2023**

Chandan Singh @ Chand

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Malkiat S. Hundal, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 16 dated 07.02.2022 registered under Sections 379-B (2),201 of IPC and Section 25,54,59 of Arms Act registered at Police Station Sadar Patti, Tarn Taran, Annexure P-1.

2. As per the case of the prosecution, five youngmen with covered faces, came on a Pulsar motorcycle and threw the motorcycle of the complainant on the ground by hitting him with the side of their motorcycle and one of those youngmen pulled out the key of his motorcycle and snatched Rs.93,122/- from the pocket of jacket of the complainant, his mobile phone Samsung S20 and wallet of his friend Lovish Kumar, in which Rs.7,535/- and one ATM of Bank of India were there. While leaving, they also snatched motorcycle bearing registration No.PB-21-G-2444 TVS of the complainant. With these main allegations, the FIR was registered in the present case.

3. Learned counsel for the petitioner contends that the petitioner was

not named in the FIR. Learned counsel further contends that he was arrested in a case FIR No.18 dated 11.02.2022, along with his co-accused and on the basis of the disclosure statement suffered in the said case, the petitioner has been falsely involved in the present case as well. He further contends that the investigation has already been concluded and the challan has been filed in the present case. The charges were ordered to be framed on 03.11.2022 and only one witness has been examined so far. He further relies upon the order dated 17.08.2023 passed by this Court in CRM-M-23704-2022 titled as “Harpreet Singh @ Happy and CRM-M-21449-2023 titled as “ Karandeep Singh Vs. State of Punjab, whereby the concession of bail was granted by this Court to the co-accused Harpreet Singh @ Happy and Karandeep Singh respectively. Learned counsel further contends that the case of the petitioner on better footing than the said two co-accused.

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

5. I have heard the learned counsel for the parties and with their able assistance, I have gone through the Court record carefully.

6. It is not in dispute that the petitioner was arrested in the present case on 16.02.2022 and is in custody for the last one year and seven months. No doubt three more cases have been registered against the present petitioner, but the same does not serve as a ground to deny the concession of bail to the petitioner in the present case, especially when he has been able to make out a case for grant of bail in the present case. Thus, the petitioner can never be

confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831*** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another 2012(1) R.C.R. (Criminal) 586***. Still further, in the present case, the petitioner is in custody for such a long period. However, the prosecution has been able to examine only one witness and the trial has been unnecessarily delayed on account of the fault on the part of the prosecution, which is also violation of Article 21 of the Constitution of India.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate 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 involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*

(vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

(viii) *The petitioner shall report every 1st Monday of English calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.*

8. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(N.S.SHEKHAWAT)
JUDGE

16.10.2023
hitesh

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