

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

CRM-M-57210-2023
Date of Decision: 17.11.2023

Prince Behal ...Petitioner

vs.

State of Haryana ...Respondent

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

Present : Mr. Tarun Sharma, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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 to him in case FIR No.0066 dated 07.08.2021 registered under Sections 379-A, 34 of IPC (Section 201 IPC added later on), at Police Station Naggal, District Ambala.

2. As per case of the prosecution, the FIR in the present case was registered on the basis of the statement made by Rajesh Sharma. As per the complainant, at about 12.15 am on 07.08.2021, while he was going to his house, two young boys came on a motorcycle and snatched a mobile phone having sim No.9996726613, Rs.200/- in cash, ATM Card of PNB, RC of motorcycle, DL and ID card and fled away from the spot. However, the complainant had noted down the registration number of the Motorcycle as HR-07-P-4172.

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR nor any physical description of the accused was mentioned, which could even connect the petitioner with the crime. In fact, the

petitioner was arrested in another case i.e. FIR No.341 dated 21.08.2021 under Section 379 IPC and on the basis of the statements suffered in police custody in the said case, the petitioner was also involved in the present case. He further contends that the petitioner was arrested in the present case on 30.01.2022 and is in continuing in custody for the last more than 01 year and 9 months. He next contends that only 02 witnesses, out of total 18 witnesses, have been examined so far and further custody of the petitioner will 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 of similar nature have already been registered against the present petitioner. Thus, there is likelihood of repetition of crime, in the event of grant of concession of bail to the present petitioner.

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

6. It is not in dispute that the petitioner was arrested in the present case on 30.01.2022 and is in custody for the last one year and nine months. No doubt five 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 two witnesses 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. Still further, the petitioner was not initially named in the FIR and has been arraigned as an accused in the present case on the basis of the statement suffered by him in another FIR. Still further, since the petitioner is involved in another case, it would be appropriate to impose stringent conditions on him.

8. Without commenting on the merits of the case, 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 sureties 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 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 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 Haryana shall be at liberty to move an appropriate application in this regard.*

17.11.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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