

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

244

2024:PHHC:023559

CRM-M-2883-2024

Date of decision: February 19th, 2024

Iqbal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Ms. Jasleen Chahal, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.382 dated 14.07.2023 under Section 406 408 of the IPC (challan presented under Sections 406, 408 and 120-B of the IPC) registered at Police Station Hodal, District Palwal.

2. Before proceeding further, the contents of the FIR (Annexure P-1), may be reproduced:-

“To the SHO PS Hodal, Palwal Sir, it is requested that I Rakesh S/o Chanderbhan Chahar is a resident of Neeraj Norangpura, PS Hameerwas, District Churu, Rajasthan. I am an employee of NRVLogistics Ltd., Manesar, Gurugram. That a truck of our company bearing registration no.NL-01-AE-0555 started from Chennai on 11.07.2023 for Delhi which was loaded with I Phones. The said vehicle was being driven by Jaffru-udeen s/o Bagdu R/o Ali Meo and Shahbdeen S/o Nasru R/o Sadawadi Nagina, Distt. Nuh. They did not deliver the iPhones and we got to know that they have stole the mobile phones near Karman border, Hodal.

The mobile phones were worth crores of rupees. It is requested that our mobile phones may be recovered and strict legal action may be taken against the accused persons.”

3. Learned counsel for the petitioner, *inter alia*, contends that petitioner has been in custody since 20.07.2023 in the FIR in question. While drawing the attention of this Court to the allegations levelled in the FIR, which has been reproduced as under, it has been submitted that a perusal of the same reveals that no suspicion much less by way of a whisper was raised qua the involvement of the petitioner in the crime in question; he came to be nominated as an accused on the basis of a second disclosure statement allegedly suffered by co-accused Jaffrudeen. It has been asserted that such disclosure statement has very weak evidentiary value.

4. Learned counsel submits that the petitioner has clean antecedents, which further lends credence to his false implication in the instant case. It has also been submitted that the investigation in the case at hand is complete as even charges stand framed, however, none of the nine witnesses cited by the prosecution have been examined till date. Hence, there is no likelihood of the trial concluding anytime in the near future.

5. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the petitioner was not named in the FIR in question, however, she submits that the petitioner came to be nominated on the disclosure statement of co-accused Jaffrudeen, who is none other than his brother-in-law. It has also been submitted that when the petitioner was arrested on 20.07.2023, a recovery of 32 mobile handsets was

effected from him, which left no manner of doubt about his involvement in the crime in question.

6. On a pointed query put to the learned State counsel as to whether the petitioner is involved in any other criminal case, she on instructions, has replied in the negative.

7. I have heard learned counsel for the parties and perused the material placed on record.

8. As not disputed, the petitioner has clean antecedents, coupled with the fact that the investigation in the case at hand is complete. The trial would take considerable time to conclude as the next date fixed before the trial Court is 26.02.2024 when the prosecution evidence is likely to commence. Further incarceration of the petitioner in the circumstances would serve no useful purpose.

9. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

10. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

February 19th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No