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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2964-2024 (O & M)
Date of decision: 27.05.2024

Raj Kumar Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rohit Mittal, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.225 dated 03.04.2023 under Sections 406 and 420 IPC registered at Police Station City Narnaul, District Mahendergarh.

2. The present FIR came to be registered at the instance of Sarbati Devi wife of Chetan Prakash Khanna and reads as under:-

“To SHO Sahib, Police Station City Narnaul Sir, it is requested that I Sarabati Devi, wife of Chetan Prakash Khanna, resident of Mohalla Rao. Today, on 3.4.2023, I was coming to my home after withdrawing Rs 20,000 from PNB Bank near Civil Hospital, Narnaul. At about 10.30 AM, when I reached Rao's Mohalla Chowk, two persons came on a scooter and immediately approached me and started enquiring about the way to Mahendargarh, then when I told the way. one of them started asking me that I have come from the bank. Your form has to be filled and while talking to me, he took 20,000 rupees from me and then gave me the thousand rupees back. Before I



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could understand anything, he gave me biscuit and 300 rupees and ran away, dodging me. Legal action should be taken against these people who have cheated me and taken my money. And my money should be recovered. RTI Sarbati Devi Applicant Sarbati Devi”.

3. During the course of investigation, Jagat Singh and Raj Kumar @ Raju (petitioner) were arrested. The petitioner got recovered Rs.1000/- out of the snatched amount of Rs.20,000/- alongwith the scooty used in the occurrence.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He was not named in the FIR and had been named only in the disclosure statement of a co-accused which had no evidentiary value. As the petitioner was in custody since 05.06.2023 but only 03 out of the 11 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of regular bail, moreso, when the case was triable by the Court of a Magistrate.

5. The learned counsel for the State, on the other hand, has filed a reply dated 17/15.05.2024 which is taken on record. While referring to the said reply, he contends that Jagat Singh/co-accused was arrested in the FIR No.468 dated 01.07.2023 under Sections 406 and 420 IPC, Police Station City Narnaul wherein he named the present petitioner. Later, Jagat Singh and the present petitioner were arrested in the instant case. The recoveries had been effected from the petitioner. He was a habitual offender with 04 other cases registered against him. Therefore, he was not entitled to the



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concession of bail. He, however, concedes that the petitioner was in custody since 05.06.2023, only 03 out of the 11 prosecution witnesses had been examined so far and that the case was triable by the Court of a Magistrate.

6. I have heard the learned counsel for the parties.

7. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

“Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

8. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated during the course of the Trial. Admittedly, the petitioner is in custody since 05.06.2023 and only 03 of the 11 prosecution witnesses have been examined so far. Therefore, the Trial in the present case is not likely to be concluded anytime soon. The present case is, however, triable by the Court of a Magistrate and no serious apprehension has been expressed by the State that the petitioner would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required



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9. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Raj Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case/crime other than the case(s) referred to in the State reply dated 17/15.05.2024.
11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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. The present petition stands disposed of.

May 27, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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