

CRM-M-5208-2024

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-5208-2024(O&M)
Date of Decision: 06.02.2024

BABU RAM @ TINIYA

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lakhwinder Singh Dandiwal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 70 dated 26.01.2022 registered under Sections 379-A, 34 of Indian Penal Code (Section 120-B of Indian Penal Code added later on) at Police Station City Fatehabad, District Fatehabad.

2. Present FIR was lodged on the allegations that on 26.01.2022, the complainant was present in his house and his wife had gone to leave his grand-daughter for tuition. At about 3.25 PM, when he heard noise, he came out of his house and saw his wife and grand-daughter were weeping. When he hurriedly approached them, then his wife informed him that two young boys came on a motorcycle. One of the boy tried to snatch her gold chain and in the process he succeeded in snatching half of the chain. The weight of the said chain was around 8-10 grams of gold.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is not named in the FIR, rather the description given in the FIR

is of two young boys and the petitioner is a middle aged person and he has been implicated in the present case only on the basis of disclosure statement made by co-accused Mangal Ram @ Mangal and Sonu, who deposed while in police custody, which has not evidentiary value in the eyes of law. The petitioner being related to one of the accused, has been falsely implicated in other cases also, with the aid of Section 120-B of Indian Penal Code. In the present case also, the petitioner has been implicated with the aid of Section 120-B of Indian Penal Code.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he is a habitual offender and involved in 06 more cases and as such he is not entitled for the concession of regular bail.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 01.10.2023. Investigating Agency has concluded the investigation and submitted the final report under Section 173 of Cr.P.C. Trial of the case has not commenced as the case is fixed for 09.02.2024 before the trial Court, for framing of charges. Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. In view of the above, the present petition is allowed and the petitioner-Babu Ram @ Tiniya is ordered to be released on regular bail

during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

06.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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