

CRM-M-5501-2024

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(238)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 5501-2024
Date of Decision: 08.02.2024

RASHID @ CHHOTU

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kirat Pal Dhaliwal, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.67 dated 24.08.2023 registered under Sections 379-A, 342 and 120-B read with Section 34 of the IPC, later on Section 379-B IPC was added at Police Station Rohadai, District Rewari, Haryana.

2. The present FIR came to be registered at the instance of Birbal son of Umesh Mehta who stated that he along with his partner were in the business of Bee keeping. While he was sleeping, 4-5 persons came, tied him with ropes on the cot, snatched his mobile phone and stole 40 Bee boxes. The persons were calling each other by the names Mony and Ritik.

Pursuant to the registration of the FIR, Rashid alias Chotu (petitioner) was arrested on 08.09.2023 and got recovered a Mahindra Pickup vehicle. In his disclosure statement, he named Rafi (granted bail vide order

dated 18.01.2024 passed in CRM-M-1566-2024). Rafi was arrested and got recovered the mobile phone of the complainant and 29 boxes of honey bee.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The occurrence took place on 24.08.2023 at about 1.00 AM/1.30 AM whereas the FIR was registered on 24.08.2023 at about 2.47 PM. The delay in the registration of the FIR was fatal to the prosecution case. The recovery had been planted upon the petitioner. As he was in custody since 08.09.2023, the investigation stood completed but none of the 18 prosecution witnesses had been examined so far, he was entitled to the concession of bail even though he was an accused in multiple cases.

4. On the other hand, the learned State counsel contends that the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the concession of bail moreso when he was a habitual offender. He, however, concedes that the petitioner was in custody since 08.09.2023, none of the 18 prosecution witnesses had been examined so far and that a co-accused Rafi had been granted the concession of bail.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 08.09.2023 and none of the 18 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

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7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rashid @ Chhotu son of Nasum @ Masum is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. 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 crime other than the cases mentioned in the custody certificate dated 08.02.2024.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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 the trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

08.02.2024

JITESH

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