

2024:PHHC:022552

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

212

CRM-M-7575-2024

DATE OF DECISION: 16.02.2024

TUSHAR ALIAS TASHU

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Goel, Advocate for the petitioner(s).

Mr.J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail in FIR No.96, dated 29.10.2023, under Sections 379-B and 34 IPC registered at Police Station Daresi, District Ludhiana.

Learned counsel for the petitioner fairly contends that on a secret information, the instant FIR was got registered against three persons alleging that the petitioner is a habitual of snatching the mobile phones and is involved in identical other cases.

Notice of motion.

On the asking of Court, Mr.J.S. Rattu, DAG, Punjab accepts notice on behalf of the respondent-State and has produced the custody certificate, which is taken on record. He clarifies that the petitioner is not involved in any such case under Section 379-B but there is another FIR No.93 dated 14.10.2023 under Sections 323, 506, 336, 148, 149 IPC and 25, 27, 54 and 59 Arms Act registered at P.S. Laddowal, District Ludhiana registered against the petitioner wherein

also he is not on bail.

Learned counsel for the petitioner categorically submits that custody period produced by learned State Counsel is incorrect qua the fact that the petitioner is not on bail in FIR No. 93 dated 14.10.2023. In the instant case as well, the petitioner has suffered 3 months and 17 days custody so far, after completion of the investigation challan stands presented on 04.01.2024 and charges also stands framed on 15.01.2024. The prosecution is yet to start his evidence wherein total number of 10 witnesses are to be examined.

The aforesaid stage of the trial is sufficient for this Court to infer that the trial will take considerable time to conclude for the petty offence wherein no direct material evidence is available with the prosecution. Hence, it would be unfair and unconstitutional for this Court to deny the concession of bail to the petitioner which would result in custody of the petitioner for indefinite period on account of pendency of the trial. As far as the pendency of other cases and involvement of the petitioner in other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule

of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail. Thus, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

16.02 2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>