

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-7579-2024 (O&M)

Date of decision: 20.02.2024

Anil Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Aditya Sanghi, Advocate for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.151 dated 02.10.2023 under Sections 379/419/420/384/120B of the IPC registered at Police Station Nizampur, District Mahendergarh. (FIR was initially registered under Sections 34/379-A of the IPC, challan was presented under Sections 120-B/34/379/419/420/384 of the IPC whereas charges have been framed under Sections 379/384/419/420/120-B of the IPC).

2. Learned counsel for the petitioner inter alia contends that the petitioner has been in custody since 12.10.2023 in a magisterial trial. After the challan was presented on 29.11.2023, which was followed by framing of charges on 02.01.2024, 02 prosecution witnesses out of the 09 including the complainant had been examined and it was a matter of record that since he had not supported the case of the prosecution, he was declared hostile by the Trial Court. Learned counsel has further submitted that the only reason why the Trial Court had declined the concession of bail to him was because one PW Vikram

Singh had not yet been examined. Learned counsel has submitted that since said Vikram Singh was not even an eye witness to the alleged occurrence, his supporting or not supporting the case of the prosecution would not in any manner adversely affect the case of the prosecution. It has also been brought to the notice of this Court that no recovery much less of the stolen mobile handset was effected from the petitioner coupled with the fact that he has clean antecedents being not involved in any other criminal case much less of a similar nature.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the submissions made by learned counsel for the petitioner qua the complainant having been declared hostile during trial. It has also not been disputed that no recovery much less of the stolen articles was effected from the petitioner, however, she submits that the petitioner had impersonated as a police official during the occurrence in question.

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

5. Before proceeding further, it would be apposite to reproduce the FIR (annexed as Annexure P-2) and the same reads as under:-

“To, the SHO Police Station Nizampur, Sir, it is requested that Manoj Kumar son of Ramkishan am resident of Village Gadla Police Station Rohdai District Rewari, I use to drive Trola Number HR47F-7562, on dated 01.10.2023 while loading dust from Kishore Pura was going to Village Machhroli, when I reached near Village Tazipur Pulia time in the evening at 8, 8.30 a vehicle XUV number of which was HR-34G-6359 came and stopped my Trola, I stopped my Trola, out of which one person alighted and come and asked me to make him talk with your owner and took my phone and went in their vehicle, at night at around 12,12.30 hrs my companion came from his Mobile

Number 9813510915 I called at 112 and thereafter I had gone to village Machhroli for unlading my vehicle, now I have come, that two persons boarding vehicle Number HR-34G-6359 XUV snatched my mobile and weighing slip had fled away, my mobile is of Samsung, action may be initiated against them. Signatures Manoj Mob. No. 9896187221, 8930405030 Adhar Number 301964340526
Today at police station :-

Today Manoj Kumar son of Ramkishan Village Gadla Police Station Rohdai District Rewari submitted an application by coming present in Police Station, keeping in view of above duly received application prima facie a case is made out under section 379A/34 IPC, so present case was under above mentioned offence was registered. xxxx”

6. The petitioner has been in custody since 12.10.2023 in a magisterial trial. The complainant already stands examined and concededly has been declared hostile during trial, hence, further incarceration of the petitioner would serve no useful purpose. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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.

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

20.02.2024

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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