2024:PHHC:142200

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226 **CRM-M-24893-2024**
Date of decision: 29.10.2024

MOHD. TARIF

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ritesh Tomar, Advocate, for the petitioner.

Mr. Yuvraj Shandilya, AAG, Haryana.

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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.616 dated 31.12.2019 under Sections 420 and 379 of the IPC (Sections 392, 397, 34 of the IPC 1860 were added later on & Section 27(1) of the Arms Act,1959 and Sections 420 and 379 of the IPC have been deleted later on) registered at Police Station Sector 50, Gurugram, District Gurugram.

2. Learned counsel for the petitioner contends that the petitioner's false implication in the present case is evident from the fact that while stepping into the witness box, the most material witness i.e. the complainant had failed to identify the petitioner as being one of the alleged assailants, who robbed him at gunpoint of his belongings including credit cards, wallet containing money and mobile handset etc. It has also been argued by the learned counsel that a perusal of the FIR which has been annexed as Annexure P-1 further reveals that the petitioner was not named

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therein and all the allegations were levelled against unknown persons. Learned counsel still further submits that the petitioner is being linked to the crime in question only on the basis of an alleged money transfer into his account by co accused Taslim.

3. *Per contra,* learned State counsel, while opposing the prayer and submissions made by the counsel opposite, on instructions, has not controverted that the FIR in question was registered against unknown persons; it has also not been disputed that the petitioner has no previous criminal incidents. However, learned State counsel has reiterated the allegations levelled in the FIR in question which stand reproduced herein-under:

> *"To, Respected SHO Sahib, PS Sector 50, Gurugram. Respected sir, I Manoj Singh Bisht S/o Sardar Singh Bisht is a resident of H. No. 1654A, 29 Sector, Faridabad and I am working in JAK Group Ltd. Company. On 28.12.2019, he came to attend a party of company at Tap House Good Earth Mall, Sector 50, Gurugram and after having party till midnight around 12.30 AM-01.00 AM, I was waiting for a vehicle for going to home and I was having jacket in my hand and car key, ATM (Canara Bank, RBL Credit Card, Kotak Credit Card, Standard Chafer and Mobile Phone Realme XT Company (Pearl Blue), IMEI No. 866121045337216/8066121045337208, containing two SIMs and one is having number 8010126552 (Idea) and second one was 7982264210 (Jio) inside the jacket. In the meantime, a vehicle stopped there and asked him where he has to go, then he replied that he will go to Faridabad and then I sat in the car. My jacket was left in the said vehicle, and number of which I do not remember and now I came to police station. I got reactivated my second No. 8210126552 on 31.12.2019 and reset my gmail account password, then I came to know that an amount of Rs.17,295/- got debited from account no. 0346118000884,*

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> *Rs.17500/- got debited from second credit card bearing no. 5546232926074997 and Rs.91,700/- from RBI. Credit Card, account no. 5239504505124571, totaling to Rs.126495/- with an illegal manner. That above driver has debited the money from my account with an illegal manner. Appropriate action may kindly be taken against him and my amount may kindly be recovered. Sd/- Anuj Singh Bisht S/o Sardar Singh Bisht M. No. 8010126552*."

Learned State counsel has also submitted that during investigation it came to light that all the accused had indulged in bank transactions with the credit cards of the complainant; Rs. 12,000/- fell to the share of the petitioner and it was supported by bank transactions between him and co accused Taslim, who had since been extended the concession of bail. It has been asserted by the learned State counsel that although the petitioner was not identified during trial by the complainant, however it was on account of the fact that the occurrence in question had taken place in the dead of the night and hence the physical features of the petitioner could not have been possibly visible to the complainant.

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

5. The petitioner has been in custody since 03.06.2023. As per the learned State counsel 07 prosecution witnesses including the sole material witness i.e. the complainant stand examined however 10 prosecution witnesses are yet to be examined. Hence, the trial would take considerable time to conclude.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

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6. Accordingly, the instant petition is allowed and 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.

7. 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.

(MANJARI NEHRU KAUL)
JUDGE

October 29, 2024
poonam

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

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