



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

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**CRM-M No.32549 of 2024
Date of decision : 11.7.2024**

Mohit Khanna @ Monu**.....Petitioner**

Versus

State of Haryana**.....Respondent****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Ms. Jyoti Chahal, Advocate, for
Mr. Ravi Gurjar, Advocate, for the petitioner

Mr. B.S. Virk, Senior DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in FIR No.66 dated 21.2.2024, under Sections 379 and 34 of the IPC, 1860, registered at Police Station Purani Sabji Mandi, District Rohtak.

2. Learned counsel for the petitioner would submit that she was not even present at the alleged place of occurrence at the alleged date of occurrence and question of snatching of mobile phone does not arise. She would further contend that the petitioner has no criminal antecedents and the FIR was wrongly registered as the petitioner was not even present at the alleged place of occurrence. It is only on a disclosure statement of co-accused Sawan that the petitioner has been nominated in the instant FIR.

3. Notice of motion.



4. On the asking of Court, Mr. B.S. Virk, Senior DAG, Haryana, who is present in Court, accepts notice on behalf of respondent-State and on instructions, submits that the petitioner is a habitual offender involved in another FIR No.563 dated 29.11.2023 under Sections 379-A, 411, 201 and 34 IPC, registered at Police Station Old Sabji Mandi, Rohtak.

5. Having heard learned counsel for the parties and given a thoughtful consideration to the averments made on behalf of the learned State counsel that he is not first offender as he is involved in another FIR, mentioned above, it is not in dispute that the petitioner is on bail in that case as well and the story of the prosecution was on similar lines wherein the petitioner was not present at the spot as well. It seems that the petitioner has not been involved in purchase of stolen mobile phone but was under bona fide belief, is yet to be established by the trial Court in that FIR. Even as per the ratio of the law laid down in CRM-M-25914-2022 titled as *“Baljinder Singh alias Rock vs. State of Punjab”* decided on 02.03.2023, the incriminating material evidence in any other FIR cannot be read in the present FIR for consideration of bail or even during the course of trial to convict the petitioner. It is in the instant petition as well evident from the narrated facts in the FIR as well as submissions made on behalf of the State that the petitioner was not present at the spot but was subsequently named by the co-accused Sawan. In the light of facts considered that role of the petitioner cannot be ascertained with conformity at this stage and on that account his custodial interrogation would not serve any purpose whatsoever.

6. In the light of above, the present petition is allowed with a

direction to the petitioner to join the investigation within a period of one week, subject to his furnishing personal/security bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C. However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by the Court shall automatically stands cancelled.

(SANDEEP MOUDGIL)
JUDGE

11.7.2024
Ashwani

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