

CRM-M-34483-2023 (O & M)
(225)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34483-2023 (O & M)
Date of decision: 13.02.2024

Harsh @ Harsh Chahanng

..... petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Vaibhav Narang, Advocate, for the petitioner.

Ms. Amrita Garg, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

CRM-3306-2024

The application for placing on record the statements of PW-1 to PW-3 dated 14.12.2023 (Annexure P-7) is allowed as prayed for subject to all just exceptions. The same are taken on record.

CRM-M-34483-2023

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.153 dated 19.05.2023 under Sections 379-B, 411 and 34 IPC registered at Police Station B Division, District Police Commissionerate Amritsar.

2. The present FIR came to be registered at the instance of Mohd. Shamsad and reads as under:-

“A Statement of Mohd. Shamsad son of Mohammad Tehreer resident of Neelam Chack street no. 11, District Mungair, Bihar, presently resident of Tenant of Housing Board Colony near

CRM-M-34483-2023 (O & M)
(225)

::2::

Raja Tailor, Amritsar aged around 25 years, mobile no. 7970762859 made a statement, I am resident of above said address and I do the work of installing stone and today on 19.05.2023, I had gone out from my house along with my friends Mohd. Wahid, Mohd. Tavrej and when we came down from auto at Ram Talai Chowk and were going for installing stone to East Mohan Nagar and when we had gone little ahead at side of Jahajgarh and reached near Petrol Pump then two clean shaven persons came on Activa no. PB 02 EM 1133 color dark blue who snatched my Samsung mobile held in my hand color black in which SIM no. was 9304685050 of Jio company and then had run away on Activa, I had raised raula both of them got confused and their Activa got stopped. I along with the help of my friend and help from public, I have caught them at the spot, they are the same persons who had snatched my mobile phone, I have recovered my mobile phone, you are requested to take legal action against them. I have heard the statement, it is correct. Verified as correct LTI Mohd. Shamsad 7970762859, attested as correct, Harjit Singh ASI, Police Station B. Division, District Amritsar”.

3. The learned counsel for the petitioner contends that the complainant-Mohammad Shamsad, witnesses Mohammad Wahid and Mohammad Tarbez have been examined as PWs 1, 2 and 3 and have not supported the case of the prosecution. As the petitioner was a first-time offender, in custody since 19.05.2023 and only 03 out of the 14 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

CRM-M-34483-2023 (O & M)
(225)

::3::

4. The learned counsel for the State, on the other hand, contends that the petitioner and his co-accused were apprehended on the spot and it was found that the scooter used in the occurrence belongs to the petitioner. Therefore, he was not entitled to the grant of bail. She, however, concedes that all the three material witnesses have been examined and have not supported the case of the prosecution.

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

6. Admittedly, the three material witnesses have not supported the prosecution version and have been declared hostile qua the identification of the accused. Whether the remaining evidence is sufficient to affix liability upon the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is stated to be a first-time offender, in custody since 19.05.2023 and as many as 11 prosecution witnesses still need to be examined. 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.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Harsh @ Harsh Chahanng is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The present petition stands disposed of.

February 13, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No