

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

202-CRM-M-37530-2024
Date of decision: 26.09.2024

Mithan @ Mithu @ Sonu
... Petitioner

VS.

State of Haryana
... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr.Shalender Mohan, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

Relief sought

The petitioner has filed the present petition under Section 483 BNSS seeking grant of regular bail in case FIR No.170 dated 16.07.2021 under Sections 379-A/417/420/511 read with Sections 34/120-B IPC, registered at Police Station City Ratia, District Fatehabad.

Facts

Prosecution story set up in the present case as per the version of the version is as under:-

“To SHO Police Station, City Ratla. Sir, Stated that I Jobanpreet Singh S/o Paramjeet Singh is resident of Village Kanwalgarh Dhani, Tehsil Ratia and District Fatehabad and I am truck mechanic by profession. My uncle Manjeet Singh is having account No. 50100343197631 in HDFC Bank and has got issued ATM card of the same and he was to pay installment of truck and therefore, my uncle Manjeet Singh gave his ATM card for withdrawing an amount of Rs.37,000/- from ATM. When I went to ATM situated at Sanjay Gandhi Chowk, Ratia for withdrawing money after taking ATM card from my uncle, then one young boy came there and asked me that he is in hurry and he wanted to withdraw money firstly and he snatched ATM card which I had inserted into ATM and swapped the same upon the machine carried by him in his another hand. When I

asked the guard of ATM, then said boy tried to run from there but I and guard of ATM apprehended him and on enquiry, said person disclosed his name as Monu Kumar son of Parkash, resident of Sangatpura, District Jind and also disclosed that he used to take money from other people by swapping ATM cards in such manner. A legal action be taken against him. Sd/. Jobanpreet Singh..”

Submissions by petitioner counsel

Learned counsel for the petitioner argued that the petitioner has been falsely implicated in the present case and has been in custody since 16.07.2022 and his further incarceration is not required as supplementary challan against him has already been presented in the Court particularly in view of the fact that the petitioner has nearly completed 1 ½ year in custody. He further urged that the complainant PW2 has not supported the prosecution version and therefore there is no substantive or legal evidence against the petitioner.

State's Contention

Learned State counsel has filed custody certificate dated 25.09.2024 which is taken on record and as per which, the petitioner has undergone total sentence of 1 year 9 months and 3 days, pending trial. Besides, there are three criminal cases registered against him wherein he earned acquittal in one case and has been convicted in two other cases.

Analysis

Heard learned counsel for the parties and gone through the record.

As far as the pendency or 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.

That apart, challan in the present case has been filed on 13.09.2022; investigation is complete and charges have been framed on 27.10.2023 and out of 26 PWs, only 10 PWs have been examined and for that reason the petitioner cannot be put behind the bars for an indefinite period.

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana, 2022(2) R.C.R. (Criminal) 85*** has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace inasmuch as out of total 26 PWs, only 10 PWs have been examined so far and in

that eventuality, it is abundantly clear that it will take certainly long time to conclude and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another*;; (2018) 3 SCC 22”.

Decision

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

26.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No