

2024.PHHC.143981



228.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39988-2024

Date of decision: 05.11.2024

Arun Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Anshumaan Dalal, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

GURBIR SINGH, J.

1. This petition has been filed under Section 483 of Bhartiya Nagarik Suraksha Sanhita for grant of regular bail to the petitioner in case FIR No.176, dated 06.06.2023, registered under Sections 420, 406 of IPC (report under Section 173 of Cr.P.C. has been presented under Sections 406, 420, 201, 419, 467, 468, 471, 472 of IPC) at Police Station City Mahendergarh, District Mahendergarh.

2. The aforesaid FIR was registered on the statement of Mukesh Sharma against Khushbir with the allegation that on 24.05.2023, he purchased one Scorpio car from Khushbir, for an amount of Rs.8,50,000/-. Out of which, he paid Rs.5 lakh (Rs.4,50,000/- in cash and Rs.50,000/- through phonepay) and when the complainant demanded RC of said vehicle, then Khushbir replied that there was a loan on the said car which he had repaid and form No.35 has been received and RC has been

submitted in the concerned office for removal of hypothecation clause. After that, he would get the car transferred in his name and then he could pay the remaining amount and regarding this, the same day i.e. 24.05.2023, said Khushbir also gave an affidavit to the complainant. On 25.05.2023, Khushbir called the complainant that he was in need of Rs.40,000/- and the complainant transferred Rs.40,000/- through phonepay to him. On 29.05.2023, the complainant went to Delhi in the said car for getting admission of his child, but due to getting late, he stayed at the house of his relative at Delhi. There a policeman came and said that his car was stolen one. The complainant stated that he had purchased the car and to show the FIR, but said policeman forcibly took the car to the police station. The complainant also went to the police station but no FIR was found to have been registered against the said car by any person. Lateron, the police in connivance with said accused and Ram Niwas official, confiscated the car under Police Act by showing the said car to be unclaimed and registered an FIR in the same evening.

2.1 Initially, the FIR was registered under Sections 406 and 420 of IPC, but during investigation, it was known that the petitioner in connivance with co-accused fraudulently sold the vehicle to the complainant Mukesh Kumar. Khushbir Singh also joined the investigation and showed the original documents of the car and stated that petitioner came to him to his office and asked for hiring a car for 6 days. A scorio car was given at the rate of Rs.5,000/- per day. After completion of 6 days,

he got it renewed for 3 more days. Thereafter, when he tried to contact with the petitioner, he came to know that said vehicle had been sold to the complainant and in this regard, he lodged an FIR No.477, dated 30.05.2023, under Sections 406 and 420 of IPC against the petitioner. The petitioner joined investigation on 08.11.2023 and admitted his involvement in the present crime along with co-accused Hemant. After completion of investigation, charges under Sections 201, 406, 419, 420, 467, 468, 471, 472 of IPC have been framed against the petitioner and co-accused Hemant.

3. Learned counsel for the petitioner has argued that the petitioner is not named in the FIR. Only Rs.90,000/- was paid by the complainant through bank whereas there is no proof regarding cash payment of Rs.4,50,000/-. The car was confiscated on 29.05.2023 whereas the present FIR was registered on 06.06.2023 i.e. after a delay of 9 days. The owner of the car, namely, Khushbir Singh lodged an FIR on 30.05.2023 whereas it had already been confiscated on 29.05.2023. The co-accused Hemant Kumar has already been granted the concession of anticipatory bail. The case is triable by the Magistrate.

3.1 Learned counsel for the petitioner has also placed on file copy of the medical record of Pt. B.D. Sharma Post Graduate Institute of Medical Sciences, Rohtak that the petitioner is suffering from pancreatic cancer and is getting treatment. His health condition is very poor now.

4. Pursuant to order dated 23.08.2024, status report by way of an affidavit dated 29.10.2024 of Mohammad Jamal, HPS, Deputy

Superintendent of Police, Mahendergarh, District Mahendergarh, on behalf of respondent-State has been filed in Court today, which is taken on record.

4.1 Learned State counsel submits that the name of the petitioner has surfaced in the statement of Khushbir Singh, the original owner of the car in question, who made the statement that the petitioner took the car on rent and by forging documents, sold it to the complainant. The allegations against the petitioner are serious. Petitioner is involved in two other cases. He is not entitled for the concession of bail.

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

6. Considering the fact that the petitioner is in custody since 08.11.2023, his culpability would be determined during trial and completion of trial will take long time, pendency of other cases is no ground to decline bail, case is triable by Judicial Magistrate, he is suffering from pancreatic cancer, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the

concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition as it deems fit. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

November 05, 2024
sanjeev

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