

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.43394 of 2023

Date of decision: 18th April, 2024

Saddam

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.K. Lathwal, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.01 dated 02.01.2023 under Sections 323, 379-B, 506, 34 of the IPC (Sections 201, 392, 397, 411 IPC added later on) registered at Police Station Kharkhoda, District Sonipat.

2. Learned counsel for the petitioner inter alia contends that after he was arrested on 04.01.2023, charges were framed on 21.04.2023, however, till date not even a single prosecution witness out of the 18 cited had been examined, as they had not been appearing to get their evidence recorded before the trial Court. In support, learned counsel has placed on record zimni orders dated 21.04.2023, 11.10.2023, 31.01.2024 and 19.03.2024 of the trial Court, wherein it

stands reflected as well that despiteailable warrants issued to secure presence of the prosecution witnesses including the complainant, they had remained unserved. It has been submitted that even one official witness PW Constable Shambir had not appeared on one of the dates i.e. 19.03.2024 and had sought an adjournment. He submits that in the aforementioned facts and circumstances, possibility of the trial concluding in the near future looks remote, for which he cannot be made to languish in custody.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Sunish Kumar, has not disputed the status of the trial and also the factum of none of the prosecution witnesses having deposed till date. It has been submitted by the learned State counsel, on instructions, that the complainant as well as other material witnesses are natives of the State of Bihar and they are no longer residing in Haryana. Learned State counsel, on further instructions, has informed the Court that though the petitioner was earlier involved in two criminal cases, however, he had since been acquitted in those cases.

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

5. Allegedly the complainant along with his brother were waylaid while they both were traveling in an auto rickshaw and thereafter, the accused including the petitioner after threatening them of dire consequences, snatched their mobile handset along with an amount

of ₹11,000/-. As not disputed by the learned State counsel, trial has come to a virtual stand still on account of prosecution witnesses including the complainant not appearing before the trial Court to get their evidence recorded. The petitioner cannot be made to languish in custody as likelihood of the trial concluding in the near future, in the facts and circumstances, looks improbable. Accordingly, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

April 18, 2024
rps

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