

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-47883-2023  
Date of decision: 12.02.2024

Khushwant @ Dudiya .....Petitioner.

Versus

State of Haryana ....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Balraj Gujjar, Advocate,  
for the petitioner.  
  
Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

1. Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1).

| FIR No. | Dated      | Sections                                                | Police Station                    |
|---------|------------|---------------------------------------------------------|-----------------------------------|
| 492     | 01.12.2022 | 395, 397, 506, 379-B IPC and Section 25 of the Arms Act | Kalanaur District Rohtak, Haryana |

2. Custody certificate dated 11.02.2024 filed by learned State counsel in Court today is taken on record.

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent; has been falsely implicated in this case and is in custody since 05.12.2022. He contends that after conclusion of the investigation challan was presented in the Court and

during the course of trial even the material witness of the case, namely Balmat, has not supported the case of the prosecution against the present petitioner and as such, prays for grant of regular bail.

4. *Per contra*, learned State counsel, submits that the petitioner has been named in the occurrence to have actually participated in snatching of the car from the complainant, besides, his mobile phone and purse containing Rs. 12,000/-, as such, he is not entitled to concession of bail, however, the factum of deposition of the complainant as PW-1 is not disputed.

5. After considering the arguments raised by learned counsel for the parties and perusing the record, admittedly, after being nominated in the present case, the petitioner has been in custody since 05.12.2022. It is not disputed that during the course of trial, complainant-Balmat, the sole witness of the occurrence has not lent any support to the case of the prosecution and has categorically stated that the accused present in Court are not those persons who had snatched the car and other articles. During the cross-examination, the complainant has categorically stated that his car was found in an abandoned condition in village Sampla. In this manner, the complainant, who happened to be the material witness of the case, has not lent any support to the case of the prosecution against the petitioner. Admittedly, there is no other material witness to the occurrence; the petitioner being in custody since 05.12.2022, in these circumstances, cannot be allowed to languish in jail. Resultantly, without commenting on the merits of the

case, petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of trial Court.

6. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

8. Petition stands allowed.

12.02.2024  
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(SANJIV BERRY)  
JUDGE

- |     |                            |        |
|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |