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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-48863 of 2023

Date of decision:- 15.01.2024

SANDEEP @ SANDI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Sanjiv Majra, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

The instant petitions have been preferred by the petitioners under Section 439 of the Code of Criminal Procedure for grant of regular in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
169	25.05.2022	393, 34 IPC (379-A read with 34 IPC added lateron)	Sector-14, District Gurugram

2. As per the case of the prosecution, FIR was lodged at the instance of Parishit Sharma stating that on 24.05.2022 at about 6:00 p.m. he was standing at the gate of Old DLF, Sector -14 where two boys riding on

Activa Scooter bearing No. HR-26-ER-7360 and snatched away his mobile phone, on chasing both of them run away leaving behind the vehicle and the mobile phone, and hence the FIR was registered.

3. It is *inter alia* contended by learned counsels for the petitioner that the petitioner is innocent and has been falsely implicated in this case. The petitioner was not named in the FIR and no specific role was attributed to the petitioner. He submits that the alleged vehicle(scooter) used in the commission of the offence does not belong to the petitioner. The petitioner is in custody since 15.07.2023. Even as per the FIR, the allegations against the co-accused Raj Kumar of having snatched the mobile phone while the petitioner was just a pillion rider having no such intention. Co-accused namely Raj Kumar has already been granted concession of bail vide order dated 26.04.2023 passed in CRM-M No. 51701 of 2022 (Annexure P-2), no other case is pending against the petitioner. Challan has already been presented in Court and out of 9 witnesses cited by the prosecution none of the witnesses has been examined yet, as such he prays for grant of concession of bail to the petitioner.

4. Learned State counsel has filed reply by way of affidavit dated 13.01.2024 of Assistant Commissioner of Police, Palam Vihar, Gurugram and opposed the bail petition by arguing that considering the nature and gravity of the offence petitioner does not deserve concession of bail. However, learned State counsel has not disputed the fact that there is no other case pending against the petitioner and out of 9 witnesses cited by the prosecution none of the witnesses has been examined till date.

5. After considering the rival contentions and perusing the record,

it transpires that petitioner is in custody since 15.07.2023. Challan has already been presented in Court and admittedly out of the 9 witnesses cited by the prosecution none of the witness has been examined till date, the petitioner is not having criminal antecedents. Co-accused Raj Kumar has already been granted concession of bail vide order dated 26.04.2023 passed in CRM-M No. 51701 of 2022 (Annexure P-2). The conclusion of trial to ascertain criminal liability, if any, on the petitioner will take sufficient long time and no useful purpose would be served by keeping the petitioner behind bars any longer.

6. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

15.01.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No