

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213-CRM-M-54032-2023

Date of Decision: 06.02.2024

Kamaljit Singh @ Ricky

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Naveen Bawa, Advocate for the petitioner
Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J. (Oral)

The petitioner seeks regular bail in case FIR No.154 dated 05.09.2023 under Sections 379-B IPC (Section 411 IPC added later on) registered at Police Station Dugri, District Ludhiana (Annexure P1).

Learned counsel for the petitioner contended that the petitioner is in custody since 05.09.2023 and nothing has been recovered from his possession. He submits that the petitioner has been falsely implicated inasmuch as the petitioner was arrested at 11.00 – 11.30 am on 05.09.2023 from the house of his sister situated at village Mansura, District Ludhiana i.e. prior to registration of FIR. He further contended that as per FIR, the alleged occurrence had taken place on 04.09.2023 at 12.15 am and the information with regard to the alleged occurrence was given to the police at police station at the unexplained delay of approximately two days on 05.09.2023 at 9.16 pm.

It is further argued that there are contradictions in the statement of complainant himself given for registration of FIR as on one hand, the complainant alleged that the offence was committed by unknown person and on the other hand, the complainant has named those persons involved in snatching. He then submitted that no test identification parade was got conducted by the police.

Learned State counsel has filed custody certificate dated 05.02.2024 which is taken on record and in terms thereof, the petitioner has undergone 5 months of actual custody. He opposed the prayer for grant of bail to the petitioner on the ground that the complainant has identified the petitioner and co-accused as snatcher. He then submitted that charges in this case have been framed on 01.12.2023 and as against total 10 witnesses, none have been examined till date.

The fact that charges were framed on 01.12.2023 and none out of 10 witnesses have been examined so far, makes it abundantly clear that it will take certainly long time for the trial to conclude and in such a situation, 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*”.

Therefore, taking into consideration the totality of the circumstances as also the fact that there is no criminal history of the petitioner and that the trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars.

Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

06.02.2024
V.Vishal

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

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No