

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-60935-2023 (O&M)
Date of Decision: 05.03.2024

...Petitioner

V/S

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ravinder Bangar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 143 dated 04.07.2010 registered under Section 379 of Indian Penal Code (Sections 467, 468, 471, 420 read with Section 120-B of Indian Penal Code added later on) at Police Station Chandimandir, District Panchkula.
2. The aforesaid FIR was registered on the allegations that during the intervening night of 03-04.07.2010, the Scorpio vehicle of the complainant was parked outside his house. When the complainant woke up at around 5'O clock in the morning, he found his Car has been stolen by some unknown persons in the night. The said vehicle was registered in the name of Lakhraj and the model of the Car was of the year 2007.
3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been implicated in the present case only on the basis of disclosure statement of co-accused, whereas the petitioner has no concern with the present case and other co-accused are already on bail and the petitioner was released on regular bail on 28.09.2015. Thereafter, he could not attend the trial proceedings and was declared Proclaimed Offender.

when the petitioner was confined in Tihar Jail and he was produced in the present case by way of obtaining his production warrant. The present case is triable by Magistrate and only 03 witnesses out of total 12 have been examined so far.

4. Per contra, learned State counsel opposed the prayer for grant of regular bail to the petitioner and on instructions from ASI Anant Parkash submits that in fact there are total 29 prosecution witnesses, out of which 12 have already been examined and petitioner is also involved in more than 35 other cases and as such he does not deserve the concession of regular bail. Moreover, the delay in the trial is attributable to the petitioner only and produces the custody certificate.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is on bail in all other cases and in the present FIR also he was on regular bail and he has been behind the bars in the present case since 16.09.2023 i.e. total custody of more than a year. However, 05 months of his custody has been treated to have been served in conviction in other case. The trial of the case is likely to take long time to conclude as out of total 29 prosecution witnesses, 17 are yet to be examined. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in ***Prabhakar Tiwari Vs. State of UP and Anr.*** 2020(1) RCR (Criminal) 831 and ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others***

2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. Accordingly, the present petition is allowed. The petitioner-Ramjit Singh is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

05.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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