

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

101

CRM M-62278 of 2023

Date of Decision: 10.01.2024

William Masih (@Willi and others

...Petitioners

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Gursimran S. Bawa, Advocate, for the petitioners.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to him in case FIR No.234 dated 30.12.2021 registered under Sections 379 and 411 IPC (later on added Sections 414, 420, 473, 467, 468, 461, 471 and 120-B IPC at Police Station Majitha Road, District Police Commissionerate Amritsar.

2. The FIR in the present case was registered on the basis of a secret information and on the basis of the said secret information, a *Naka* was set up by the police and Sunny Maish was intercepted by the police. Sunny Masih could not provide any document of ownership of the motorcycle, which was recovered from him on the spot. On inquiry by the police, he disclosed that it was a stolen motorcycle. Sunny Maish was ordered to be arrested and the stolen motorcycle was taken into possession by the police. During the course of investigation, Sunny Masih disclosed that he had stolen 14

motorcycles and out of those motorcycles, he had given 06 motorcycles to Vipin Kumar @ Kaka and 04 motorcycles have been sold to the present petitioner. Thus, the petitioner and certain other co-accused were nominated as accused in the present case.

3. Learned counsel for the petitioner contends that the FIR in the present case was registered on 30.12.2021 and the petitioner was never summoned by the police. He further contends that neither any raid was conducted at the residence of the petitioner nor the challan was presented against him. He further contends that in fact, the petitioner deals in purchase of second hand motorcycles and has been wrongly arrayed as an accused in the present case. He further contends that at the most, only the offence under Section 411 IPC is made out against him and he deserves the concession of bail.

4. On advance notice, Ms. Navreet Kaur Barnala, AAG, Punjab has appeared on behalf of the State of Punjab and submits that one more case of similar nature, i.e. FIR No. 142/2022 under Section 379 IPC was registered against the present petitioner in Police Station, Civil Lines, District Police Commisionerate Amritsar. She further contends that as per the disclosure statement suffered by Sunny Masih, the present petitioner had purchased 04 stolen motorcycles from him. She further contends that every effort was made to arrest the present petitioner, but he was not traceable and non bailable warrants were issued against him. She further contends that the co-accused Sunny Masih has already been convicted by the trial

Court and the version of the prosecution has been found to be truthful by the trial Court.

5. I have heard learned counsel for the parties and perused the record.

6. It is apparent from the record that the petitioner is also involved in another case of similar nature. Apart from that, at this stage, the police has already collected sufficient incriminating evidence against the present petitioner and the 04 stolen motorcycles are yet to be recovered from the present petitioner. There are sufficient reasons to believe that the petitioner had also actively participated in the commission of the crime with Sunny Masih and is not entitled to the relief of anticipatory bail. Thus, the custodial interrogation of the petitioner would be required in the peculiar facts and circumstances of the present case and the petition is liable to be dismissed.

7. Dismissed.

10.01.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No