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

Sr. No.222

**CRM-M-63429-2024(O&M)
Date of decision : 20.12.2024**

Sandeep @ Ghanta

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Shivansh Malik, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.127 dated 25.09.2020, under Sections 379-A, 341, 392 & 34 IPC and Sections 25/54/59 of the Arms Act, 1959, registered at Police Station Rohdai, District Rewari.

2. The relevant translated version of the FIR is reproduced below:-

“To Honorable SHO Sir, Police Station Rohdai (Palhawas) Sir, I submit that I am Balkishan son of Balbir, resident of village Humaypur, Police Station Sampla, district Rohtak and I have been driving truck number HR 69 D 8060 for about two months. The vehicle owner is Satnam and Manoj oversees it. Today on 24.09.20, truck number HR 69 D 8060 left for Narnaul around 7 PM evening from village Lisana to get gravel. When was going from village Rohdai towards Jadusana, at around 09:00 PM night when I reached between Rohdai and Rojuwas, a car stopped in front of my truck which made me stop the truck and two men came from the car to my truck and after climbing into the truck took Rs 34,000 in denominations of 500-500 kept in my truck's cabin and also took my phone number 9050366528 make Samsung which was kept in the truck and while leaving they put something on my neck don't know if it was a pistol or something else, who took my money and left. Could only see car number DL 3, seemed like Verna car. Action should be taken against the accused after

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finding them. SD- Complainant Balkishan 9050366528 Police Action: Sir, today on 24.09.2020, 1 HC with HGH Jagdeep No. 347 with government vehicle PCR-15 driver EHC Sunil No. 716 was present at Palhawas chowk for patrolling when information was received via telephone from Police Control Room Rewari that Balkishan son of Balbir resident of Humaypur Kharkhauda has informed that on Rohdai village to Jadusana road, by stopping a Verna car in front of his vehicle, Rs 34,000 were snatched from him. On this information, 1 HC with staff reached the spot on Rohdai Jadusana road near village Rohdai where truck number HR 69 D 8060 driver Balkishan above presented the above complaint against unknown Verna car number DL 3 driver and others and also told about taking away mobile number 9050366528. From inquiry and verification of circumstances and complaint, prime facie offence under sections 379-A/341/34 IPC and 25,54,59 A.ACT was found to have been committed and original complaint for registering case has been sent to police station through HGH Jagdeep No. 347. Register the case and inform through case slip. I HC am busy in investigation at spot. Circumstances have been told to SHO sir. ATTESTED ROHITASH PS Rohdai dated 24.09.2020 AT 11.20 PM Today at Rohdai, on receipt of above complaint at police station, case has been registered and computer copies of FIR have been prepared as per rules which will be sent through post to the area Magistrate sir and senior police officers. Copy of case file along with original complaint is being sent to Investigation Officer at spot through HGH.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He was granted regular bail in the aforementioned FIR vide order dated 03.12.2020, that was subsequently cancelled since his second application for exemption was not supported by a medical certificate. Pursuant to it, he surrendered before the learned trial Court on 17.08.2022 and was then again admitted to bail. Thereafter, on 13.07.2023, the petitioner moved an application seeking exemption from personal appearance on the ground that he was in Assam for delivery of goods and was unable to return due to floods. However, the learned ASJ, without considering it on merits, not only rejected the same but

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also proceeded to cancel the bail bonds and issue non-bailable warrants against the petitioner. The petitioner is in custody since 22.07.2024. The impugned order reflects complete non-application of mind as it was passed without following the due process of law and mandatory provisions of Sections 73, 446 and 446A of CrPC. The petitioner has undergone an actual custody of 06 months and 17 day and there is no other criminal case registered against him.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court and as per which, the petitioner has undergone an actual custody of 06 months and 17 days, and has no other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges were framed on 14.07.2021 and out of 23 total prosecution witnesses, 06 witnesses have been examined till date. He however, contends that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. Admittedly, the petitioner the petitioner has undergone an actual custody of 06 months and 17 days and there is no other criminal case registered against him. Charges were framed on 14.07.2021 and out of total 23 prosecution witnesses, 06 witnesses have been examined.

7. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and

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detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”**.

8. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

9. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. This Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

10. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

(I) The petitioner will not tamper with the evidence during the trial.

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- (II)

The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III)

The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV)

The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V)

The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
11.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.
12.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.
- Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

20.12.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No