

IN THE COURT OF RAMESH KUMARI, (UID No.PB0039)
SESSIONS JUDGE, GURDASPURBail Application No.218 of 2020
Date of Institution: 15.09.2020
Date of Decision: 17.09.2020

Gurdev Singh son of Narinder Singh, resident of village Basrawan, Qadian, Tehsil Batala, District Gurdaspur (presently confined in Central Jail, Gurdaspur).

...Applicant/Accused

Versus

State of Punjab

...Respondent.

FIR No.108 dated 21.08.2020.
U/s 379-B/34 of Indian Penal Code
P.S. Qadian.

1st Application for Bail U/s 439 Cr.P.C.

Present: Shri Kuldip Salhotra, Advocate, learned counsel for applicant/accused, through video conferencing.
Shri Kanwarjit Singh Gill, learned Addl. Public Prosecutor for the State.
SI Avtar Singh with police record.

ORDER:

This order of mine shall decide the first application for bail under Section 439 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.) filed on behalf of above named applicant/accused, in case FIR No.108 dated 21.08.2020, U/s 379-B/34 of Indian Penal Code (hereinafter referred to as IPC), registered at P.S. Qadian.

2. Notice of bail application was issued to the State and police record was requisitioned.

3. The brief facts of the prosecution case are that the present FIR was registered on the statement of complainant Pargat Singh son of Sucha Singh, resident of village Bhitte Wad, P.S. Qadian, wherein he stated that he owns a Telecom Shop at river bank, Dhariwal, Bus Stand, Thind. His both legs are weak. He sells new phones and also repairs old phones at his aforesaid shop. He usually opens his shop at 8:00 a.m. and close the same in the evening at 8:00 p.m., and while going to his home, he used to carry all new and old phones, cash and receipts to his house. On 19.08.2020, at about 8:00 p.m., as usual, he kept in his bag 02 phones of VIVO, 02 phone of Carbon, 02 phones of Samsung, 02 phones of OPPO, 02 phones of Samsung Guru, 01 phone of Nokia, 01 phone of Lawa, 02 Blue-tooth Speakers, 20 batteries of different phones, some Data Cables, some articles of mobile phone and cash amounting to Rs.20,000/- and closed the shutter of his shop. When he was about to sit on his motorcycle, in the meantime, three assailants came on a motorcycle make Splendor, without number plate. One assailant kept on sitting on his motorcycle whereas two assailants alighted from the motorcycle. One of them was having some pistol like article and he with his left hand tried to snatch his bag of mobile phones and cash amount. However, when that assailant could not succeed in snatching his bag, the another assailant also came forward and forcibly snatched his bag from his hand and they all ran away on their motorcycle towards Dallawali. The assailant who snatched his bag was

Harpreet Singh @ Har son of Balwinder Singh, resident of Thind Dhariwal, to whom he had recognized and the remaining two assailants he can identify if they came before him. On these allegations the aforesaid FIR has been registered against the accused.

The allegation of the prosecution is that on 22.08.2020, accused Harpreet Singh alias Har was arrested by the police and on interrogation he made a disclosure statement that on 19.08.2020 at the time of incident, his friends Bhagwant Singh alias Bhatta son of Kashmir Singh, resident of Duniya Sandhu, and Gurdev Singh son of Narinder Singh, resident of Basrawa were also accompanying him and they all in connivance with each other snatched the bag from the shopkeeper and ran away towards Harchowal side. On the aforesaid disclosure statement of accused Harpreet Singh alias Har, Bhagwant Singh alias Bhatta and Gurdev Singh were also nominated as accused in the present FIR.

Accused Gurdev Singh was arrested by the police on 23.08.2020 and on interrogation, he disclosed that on 19.08.2020, the pistol like article, which was used at the time of committing snatching from Pargat Singh son of Sucha Singh, who is owner of Cheema Telecom, was only a toy, which was brought by his friend Sunil Kumar alias Sili and that toy was taken away by aforesaid Sunil Kumar alias Sili. Reiki was also done by Sili and he also gave them the signal with

torch. Out of the snatched phones and cash, a sum of Rs.2000/- came to his share, which he has spent for purchase of intoxicants.

4. Learned counsel for the applicant/accused has argued that the applicant/accused is innocent and has been falsely implicated in the present case. The applicant/accused is confined in the judicial custody since 27.08.2020. The name of applicant/accused does not figure in the FIR and he has been falsely roped in the present case on the basis of disclosure statement of co-accused. Nothing is to be recovered from the applicant/accused nor he committed any offence as alleged in the FIR. Co-accused named the applicant/accused before the police due to personal enmity because previously co-accused was friend of applicant/accused, but due to criminal nature of co-accused, the friendship of applicant/accused and co-accused Harpreet Singh has been broken and co-accused became enemy of applicant/accused and started finding opportunities to cause loss to him. No useful purpose would be served by detaining the applicant/accused behind the bars and prayer is made for grant of regular bail to the applicant/accused.

5. On the other hand, learned Addl. Public Prosecutor for the State has argued that the applicant/accused alongwith other co-accused forcibly snatched the mobile phones and huge cash amount of Rs.50,000/- from the complainant. The allegations against the applicant/accused are serious in nature and prayed for dismissal of the bail application.

6. I have very thoughtfully considered the above rival contentions of both side and perused the police record.

7. A perusal of police record reveals that the applicant/accused was named by co-accused Harpreet Singh @ Har. The applicant/accused was arrested by the police on 23.08.2020 and on interrogation he allegedly stated that out of the snatched phones and cash, a sum of Rs.2000/- came to his share, which he has spent for purchase of intoxicants. The allegations levelled against the applicants/accused are yet to be proved during trial proceedings. After arrest of the applicant/accused on 23.08.2020, the applicant/accused is in custody. Challan is yet to be presented in the Court and conclusion of trial is likely to take some time. His detention in judicial lock-up for more period shall be a burden on state exchequer. Therefore, without commenting on merits of the case and keeping in view the facts and circumstances of the case, the present application is allowed. The applicant/accused is ordered to be released on bail subject to furnishing of his bail bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Ilqa/Duty Magistrate, subject to the conditions that :

- (i) he will not leave the country without prior permission of Court;
 - (ii) he will not influence prosecution witnesses in any manner and will appear in court on each and every date of hearing;
- and

- (iii) he will appear before the learned Trial Court on each and every date of hearing except when exemption from personal appearance is obtained from the Ilqa/Duty/Trial Court.

A copy of this order be sent to the Court of learned Ilqa Magistrate for information. Police record be returned. Bail application file be consigned to the record room.

Pronounced :
17.09.2020

(Ramesh Kumari)
(UID No.PB0039)
Sessions Judge,
Gurdaspur.

(Vinay)