

**IN THE COURT OF SH. KULBHUSHAN KUMAR,
(UID No.PB0170 ADDITIONAL SESSIONS JUDGE,
PATHANKOT.**

PBPO010033662022



CIS No.BA/1094/2022.
CNR No. PBPO010033662022.
Date of order: 30.11.2022.

Satish Kumar@ Sando aged about 30 years son of Ashok Kumar, resident of village Channi Beli, Tehsil Indora, District Kangra, Himachal Pradesh.

.....Accused/Applicant.

Versus

State of Punjab

FIR No.157 dated 23.07.2020.
U/s 379-B, 34 IPC.
Police Station Division no.2, Pathankot.

Bail application under section 439 Cr.P.C.

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Present: Sh. Sourabh Ohri Advocate counsel for accused/applicant.
Shri Vivek Puri, Additional Public Prosecutor for State

ORDER:

1. This order of mine shall dispose of the application filed U/s 439 Cr.P.C by applicant/accused Satish Kumar@ Sando son of Ashok Kumar, resident of village Channi Beli, Tehsil Indora, District Kangra, Himachal Pradesh for seeking regular bail in case FIR No.157 dated 23.07.2020 under section 379-B, 34 IPC, PS Division no.2, Pathankot.
2. Notice of the bail application was issued to the State. The Ld. Addl. PP for the State has not filed written reply. Record has been called and perused.
3. Brief facts of the case are that on 23.07.2020 SI Harjinder Singh alongwith other police officials were present at Patel Chowk,

Kulbhushan Kumar,
Additional Sessions Judge, Pathankot.
(UID No.PB-0170), Dt. 30.11.2022.

Pathankot in connection with patrolling and checking of bad elements. In the meanwhile one Neelam Kumari wife of Gian Chand, resident of Mohalla Karam Singh Piplan Wali Gali near Wadhera Mohalla Division No.1, Pathankot came present and got her statement recorded before SI Harjinder Singh to the effect that she was resident of Mohalla Karam Singh Piplan Wali Gali, Near Wadhera Mohalla, Pathankot and retired from Railway Department. On 21.07.2020 in the evening she along with daughter-in-law of her aunt's Neha Sharma wife of Jaspal resident of Mohalla Sarai near Narinder Kala MC Pathankot Division No.1 by foot went from her house to pay obeisances and at that time the street lights were going on. When they reached near the shop of Rattan Halwai, then from front side a motorcycle black in colour without number plate which was being driven by one young person and another young person standing there, on seeing them he walking towards them. It was about 08:45 PM, the young person who was on foot approached her, forcibly snatched the gold earring in her left ear, snatched it and ran away on their motorcycle. They shouted loudly and a lot of peoples gathered there and told them that the name of motorcyclist is Satish Kumar son of Ashok Kumar and the name of pillion rider is Pawan Kumar son of Jagdish Raj. On the basis of aforesaid statement of the complainant, the present FIR was registered.

4. Counsel for applicant/accused argued that the police of PS Division no.2, Pathankot has registered a false FIR against the unknown person. The applicant/accused has been falsely implicated in the present case by the police at the instance of the complainant. From the perusal of the contents of the FIR, it is specifically mentioned that the complainant was totally unaware about the identity of the accused persons, but had deliberately with the connivance with the local police disclosed the name of the applicant/accused. The fact of the matter is that the whole of the story was concocted by the local police in connivance with the complainant to get the present applicant/accused falsely implicated in the present FIR. The present applicant/accused was named at the instance of the local police. He further argued that the applicant/accused was earlier

granted regular bail by the Court of Shri Avtar Singh, the then learned Additional Sessions Judge, Pathankot vide order dated 27.11.2020. The applicant/accused met with an accident on 04.11.2021 in the area of PS Nangal Bhoor, Pathankot and was badly injured and remained on bed for quite a long time. Both the legs of the applicant/accused were fractured and operated upon and for that reason, he was not able to attend the Court and his bail orders were canceled and his surety bonds were forfeited. Thereafter, the applicant/accused was on complete bed rest and was arrested when he was relieved from the hospital and since then he is in custody. Nothing is to be recovered from the applicant/accused. No useful purpose will be served by keeping the applicant/accused in custody. The conclusion of the trial will take long time. The applicant/accused undertakes to abide by all the terms and conditions imposed upon the applicant/accused. He prayed to allow the bail application.

5. On the other hand, learned Addl. P.P for State opposed the contention raised by the Ld. Counsel for the applicant/accused on the ground that the accused intentionally did not appear before the Court on the date fixed and remained absent and the Court has rightly issued the non-bailable warrants against the applicant/accused as he has misused the concession of bail granted to him. Hence, he is not entitled to be released on bail. He prayed for dismissal of the bail application.

6. After hearing rival arguments addressed by the counsel for the applicant/accused and learned Addl. P.P for State and going through the record very minutely, this Court is of the considered opinion that from the perusal of the file, it transpired that earlier the applicant/accused was on bail in the present case, but on 21.04.2022 during the trial, accused/applicant absconded from the trial and his bail orders were canceled and the bail bond stands forfeited to the State. Then the non-bailable warrants were issued against by him. The applicant/accused was produced before this court on 01.09.2022 from the custody, in pursuance of production warrants issued against him. Since then the applicant/accused is in custody. The recovery has already been effected in the

present case from the applicant/accused. He is not required for any investigation by the police. The challan in the present has already been produced by the police. The conclusion of trial will take long time. No useful purpose will be served to keep the applicant/accused behind the bars for indefinite period rather it will be the expenditure to the State. Hence, from the aforesaid detailed discussion the bail application filed by the applicant/accused is hereby allowed and the applicant/accused is ordered to be released on bail on furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of Illaqa/Duty Magistrate, Pathankot. The copy of this order be sent to the Illaqa/Duty Magistrate, Pathankot for information and necessary compliance subject to the following conditions:

1. That applicant/accused shall attend Court on each and every date of hearing.
2. That he/she shall not commit an offence similar to the offence of which he/she is accused, or suspected, of the commission of which he is suspected;
3. That he/she 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 to tamper with the evidence;
4. That he/she shall not leave the country without prior permission of Court.

7. However, the observation of mine will not effect the merit of the case. The bail application complete in all respect be consigned to the Record Room, Pathankot.

**Pronounced in the Open Court.
Dated: 30.11.2022**

**(Kulbhushan Kumar)
(UID No.PB0170),
Additional Sessions Judge
Pathankot.**

* Typed by Sawtanter Kumar Stenographer-II on direct dictation on computer.

