

PBGD010058542018



Presented on : 27-08-2018
Registered on : 27-08-2018
Decided on : 10-09-2018
Duration : 0 years, 0 months, 14 days

**IN THE COURT OF
Additional Sessions Judge, Gurdaspur
(Presided Over by Sh Gurjant Singh)**

BA/2364/2018

**Bail application No. 454 of 27.08.2018
CIS No. BA-2364-2018
Date of decision : 10.09.2018**

Dharminder Singh @ Bindu S/o Surjit Singh R/o Sangatpura District
Gurdaspur.

....Accused/applicant

versus

State of Punjab

....Respondent

First Bail Application u/s 439 Cr.P.C.,

**FIR No. 15 dated 26.01.2012,
Under Sec. 379/411 read with Section 34 of Indian
Penal Code,
PS: Fatehgarh Churian,
Police District Batala, District Gurdaspur**

Present: Sh. J. S. Premi, Advocate, for accused/applicant
Sh. H. S. Bajwa, Additional Public Prosecutor for State

ORDER:

This order of mine will dispose of bail application filed by
above named accused/applicant under section 439 of Criminal Procedure
Code for his release on bail.

2. Photocopies of record of learned trial court have been received. Arguments have been heard.

3. Sh. J.S. Premi, Advocate, learned counsel for accused /applicant has argued that above titled case has been decided by court of Sh. Chandan Hans, the then Judicial Magistrate Ist Class, Batala, vide its order dated 22.09.2016. Accused/applicant is an innocent person and police of PS: Fatehgarh Churian has falsely involved accused/applicant in case of theft of motorcycle. Accused/applicant has been declared proclaimed offender as he did not appear before trial court, Batala, on last few dates of hearing as accused/applicant had noted down wrong date of hearing. Absence of accused/applicant is not intentional or willful, but due to reason stated above. Accused/applicant is now in judicial lock up since 19.07.2018. Wife of accused/applicant had given birth to a child and there is none else except accused/applicant to look after his wife. A prayer has been thus made to release accused/applicant on bail.

4. These arguments have been refuted by Shri H. S. Bajwa, learned Additional Public Prosecutor by contending that accused has been declared as proclaimed offender in a case of serious nature and if released on bail he may absent from the court again and cause delay in disposal of case. A prayer has been made by him to dismiss the bail application.

5. I have given due consideration to rival contentions and gone through record of this case.

6. As is found from record, present case was registered on basis of statement made by Pargat Singh son of Shingara Singh resident of

Bhader Khurd, who has stated therein that he is working as Head Constable Wireless Staff at Amritsar control room. On 25.01.2012 at about 8.00 p.m, he was going to his village after meeting his relative on his motorcycle Hero Honda CD Deluxe bearing Engine No. HA11ECB 9F42183 and Chassis No. MBLHA11EN89F2876, RC of which was not prepared yet and when he had reached near village Dadujodh, then suddenly, he had felt severe pain in his stomach. After stopping his motorcycle, he had gone to answer call of the nature in a pit by side of the road. During this process, three Hindu young persons had come on a motorcycle, number and marka of which could not be noticed due to darkness. They had stopped their motorcycle near his motorcycle and pillion rider of that motorcycle had alighted from motorcycle and taken away his motorcycle. Age of those unidentified persons was approximately 20-25 years. Height of those person, who had taken away his motorcycle, was about 6 feet. He can identify those persons, if they come before him. On his motorcycle, there was his hand bag, which contains his purse containing Rs. 2,000/-, important documents, one mobile having sims No. 9463170150 and 9478796018 and identity card. Trio had taken away his motorcycle and above said articles after stealing same.

7. I have given due consideration to contentions of learned counsel for accused/applicant and gone through record of this case. As is found from record, charge in this case was framed on 03.08.2012. Accused/applicant had absented from proceedings on 11.06.2016 and his

bail order was canceled and bail/surety bonds were forfeited to State and non bailable warrants against him were issued. Later on he was declared as proclaimed offender vide order dated 22.09.2016 passed by trial court and file had been consigned under Section 299 of Cr.P.C. After remaining absent for a long period accused/applicant has been now arrested on 19.07.2018. It is stated on his behalf that he had noted wrong date, which fact cannot be believed for the reason that he should come in the court on date allegedly noted down him mistakenly and apply for release on bail afresh instead of remaining absent for two years. Explanation given by him is thus not plausible and acceptable. No cogent reason has been mentioned why he has been absconding. Perusal of record clearly shows that accused/applicant has misused concession of bail, therefore, he cannot be granted concession of regular bail. Therefore, in these circumstances, I do not find it to be fit case, where accused/applicant can be said to be entitled to regular bail. Hence, application in hand is rejected.

8. File be consigned to record room.

Pronounced
10.09.2018

Rajeev Gupta,
Stenographer Gr-I

(Gurjant Singh),
Additional Sessions Judge,
Gurdaspur
(UID No. PB0080)

Dictated on : 10.09.2018
Transcribed on : 10.09.2018
checked on : 10.09.2018
Signed on : 10.09.2018

(Gurjant Singh),
Additional Sessions Judge,
Gurdaspur.

Dharminder Singh vs State

Present: Sh. J.S. Premi, Advocate, for accused/applicant
Sh. H.S. Bajwa, Additional Public Prosecutor for State

Photocopies of record of learned trial court have been received.

Arguments on the bail application heard. Vide my separate detailed order of even date, bail application is rejected.

File be consigned to record room.

Pronounced
10.09.2018

Rajeev Gupta,
Stenographer Gr-I

(Gurjant Singh),
Additional Sessions Judge,
Gurdaspur
(UID No. PB0080)