

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

**1. CRM-M-26928 of 2017
Date of Decision: 22.08.2017**

ASI Gurkewal Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

2. CRM-M-27692 of 2017

Neelam Patel

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Dr. Anmol Rattan Sidhu, Senior Advocate
with Mr. Pratham Sethi, Advocate
for the petitioner in CRM-M-26928-2017.

Mr. Sherry K. Singla, Advocate
for the petitioner in CRM-M-27692-2017.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

SURINDER GUPTA, J.(Oral)

Present petitions have been filed under Section 439 Code of Criminal Procedure for grant of regular bail to petitioners in case FIR No. 120 dated 05.05.2017 registered for offences punishable under Sections 382, 171 read with Section 34 of Indian Penal Code (for short, "IPC") at Police Station Division no. 5 Ludhiana, District Ludhiana. (Later on challan has been presented for offences punishable under Sections 395, 412 read with Section 120-B IPC).

FIR was registered on the statement of Jaideep Singh @

Munna, wherein he has stated that on 29.04.2017, he was present in his

house, when manager of his company, namely, Patel Upinder Bhai @ Vakeel came and handed over ₹4 lacs to him. At about 10.00 a.m., he went to his office and returned at 01.15 p.m., to have meals. After about 10-15 minutes two police officials, who were keeping beard and one clear shaven person came there in civil dress, gave slaps to complainant and started conducting search. They picked up the bag having currency and asked complainant to accompany them. Complainant accompanied them but on the way they ran away from the spot alongwith money, which in the supplementary statement was described as ₹20 lacs.

Learned counsel for petitioner-ASI Gurkewal Singh submits that the incident is of 29.04.2017 and was reported to the police on 05.05.2017. Allegation against petitioner-ASI Gurkewal Singh is that ₹2 lacs were recovered from his possession and CCTV footage of the incident shows his presence at the time of incident. The CCTV footage was taken from the pen-drive supplied by complainant, which is not an authentic evidence. The petitioner is in custody since 07.05.2017. The police has sent the DVR to FSL to verify the authenticity of CCTV footage, which cannot be authenticated without examining the hard-disc on which incident was recorded. He further submits that complainant has also given a tilt to his version by initially alleging that ₹4 lacs kept in a bag were snatched from him, which figure was later on enhanced to ₹20 lacs. In view of these facts, there is no purpose of keeping the petitioner in custody.

Learned counsel appearing for petitioner-Neelam Patel in CRM-M-27692-2017 has argued that presence of the petitioner at the time of incident is not recorded in CCTV footage and his involvement in the incident is yet a matter to be ascertained on the strength of evidence

produced by the prosecution. The petitioner is also not named in the FIR and the mere fact that some money was recovered from him as per his disclosure statement is no reason to connect him with the incident.

Learned State counsel has argued that petitioner-ASI Gurkewal Singh was clearly visible in the CCTV footage of incident and his role and presence is also established at the time of snatching the bag of complainant. The CCTV footage was also available in the hard-disk of DVR in which it got recorded and the same has been sent to FSL for report. He admits that petitioner-Neelam Patel is not visible in the CCTV footage but recovery of part of the alleged looted currency was effected from him, which established that he was also one of the conspirators. Petitioner-ASI Gurkewal Singh, a police official, who is deemed to be a guardian of law, cannot be expected to indulge in such type of heinous crime. His release on bail will allow him an opportunity to tamper with prosecution evidence and also to prevail upon the prosecution witnesses.

It is not denied that presence of petitioner-ASI Gurkewal Singh and his role in snatching the bag containing currency notes from complainant, is visible in CCTV footage. It is not material at this stage that CCTV footage was also copied in a pen-drive, which was supplied to police. The original DVR and hard-disk is also in possession of police, which has been sent to FSL. Even otherwise, complainant has no reason to implicate petitioner-ASI Gurkewal Singh falsely. It is for petitioner-ASI Gurkewal Singh to come up with a version regarding his presence at the time of snatching of bag containing currency notes from complainant. It is immaterial as to whether the bag containing currency of ₹4 lacs when it was snatched or ₹20 lacs. The gravity of offence remains the same even if the

bag was found containing currency notes of ₹4 lacs or ₹20 lacs. It conveys a wrong signal to society if a police officer, who is a guardian of law indulge in such type of crime. I agree with learned State counsel that the release of petitioner-ASI Gurkewal Singh, at this stage, will allow him an opportunity to tamper with prosecution evidence and prevail upon the prosecution witnesses.

Keeping in view above facts, the bail application (CRM-M-26928-2017) filed by petitioner-ASI Gurkewal Singh is declined at this stage. However, keeping in view the fact that petitioner-Neelam Patel in CRM-M-27692-2017 was not found present at the time of occurrence, which was recorded in CCTV footage, his bail application is allowed and he is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

August 22, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No