

253 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.52030 of 2019 (O&M)
Decided on: 12.12.2019

Gurwinder Singh alias GarryPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. J.S.Bhinder, Advocate with
Mr.Jugraj Singh, Advocate for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.1 dated 12.04.2019, registered under Sections 406, 34 IPC read with Section 13 (1)(a), 13(2) of the Prevention of Corruption Act, 1988 and later on Sections 392, 411, 412, 120-B of the Indian Penal Code were added, at Police Station Punjab State Crime, SAS Nagar Mohali, District Mohali.

Counsel for the petitioner, at the very outset, has relied upon the order dated 27.11.2019 passed by this Court in CRM-M No.44032 of 2019 vide which Davinder Kumar @ Kala, the co-accused of the petitioner was granted the concession of regular by passing the following order:-

“...The FIR was registered on the basis of a complaint by Father Anthony Maedasser. He stated that he was a partner in a firm M/s Sahodhaya. The

firm was dealing in sale and purchase of stationery items which were being provided to various schools run by Diocese Jalandhar all over Punjab. As the new academic session in all the schools had started, books and stationery items were being provided to various schools by the said firm. The sale proceeds in respect thereof were being collected at the house of complainant at Village Partapura, Tehsil and District Jalandhar. He alleged that about 30 unidentified persons dressed in police uniforms armed with deadly weapons revolvers, AK 47 came to his house. They in the presence of bank officials who were present in his house took away the complainant and another. They snatched their mobile phones. They also took away the entire cash which was available in the house. The complainant alleged that total collections of the firm were Rs.30,34,54,988/- out of which Rs. 14,00,00,000/- had been deposited with South Indian Bank. The officials of the bank were present in his house and were counting the currency to be deposited in the account of the firm. The complainant was kept in custody by the police officials and released on the morning of 30.3.2019. He was informed that the money had been sent to the Income Tax Authorities, Ludhiana. The complainant received a notice from the Income Tax authorities to appear in the office of Income Tax, Ludhiana on 30.3.2019. He then learnt that money which was given to the Income Tax Authorities was only Rs. 9,66,00,000/- whereas the amount which had been taken from the house of the complainant was Rs. 16,34,54,988/-. In this manner, the police officials had misappropriated Rs. 6,65,00,000/-. An SIT was constituted under the charge of IGP Crime-1 to investigate the matter, in which the role of various police officials came to the fore. Allegations against the petitioner are that he was friend of accused ASI Joginder Singh and ASI Rajpreet Singh. ASI Joginder Singh had given some of the misappropriated amount to petitioner. The petitioner was arrested on 2.5.2019. On the basis of his disclosure statement, Rs. 30,00,000/- were recovered from his house. The learned counsel for petitioner contends that petitioner is a Commission Agent at Moonak. In that capacity, he had dealings with family of ASI Joginder Singh. He states that amount allegedly recovered was in fact given to him by father of ASI Joginder Singh, namely, Prem Singh. Said Prem Singh has already sworn an affidavit to this effect. He is respectable person in locality. He is not in any way connected with the police officials. In any

case, the recovery has already been effected. Nothing more is to be recovered from petitioner. The petitioner is in custody since 2.5.2019. Taking into consideration all the facts and circumstances and without expressing any opinion on the merits of case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate concerned.”

Counsel for the petitioner has argued that the petitioner was known to ASI Joginder Singh and since he was having dealing with him, he has paid some amount and Rs.3 lakhs have already been recovered from the petitioner.

Counsel submits that the petitioner is in custody since 14.06.2019 and challan has already been presented against him.

Learned State Counsel has filed the custody certificate in Court today and as per the order dated 10.12.2019 passed in CRM-M-27154 of 2019 it is not disputed that co-accused Mohammad Shakeel alias Khan and Devinder Kumar alias Kala have already been granted the concession of regular bail whereas two accused Nirmal Singh and Surinder Pal Sharma were declared proclaimed offenders on 11.10.2019.

Learned counsel for the petitioner in reply has submitted that primary charge against the petitioner will be under Sections 411 and 412 IPC.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case; he is in judicial custody since 14.06.2019; the co-accused of the petitioner namely Mohammad Shakeel alias Khan and Davinder Kumar @ Kala have already been granted the concession of regular bail; the custodial interrogation of the petitioner is no more required and it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on bail subject to his

furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

12.12.2019

sunita

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No