

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.12198 of 2020
DATE OF DECISION:13.05.2020

Manish Madan ... Petitioner

Versus

State of Haryana ... Respondent

Crl.Misc. No.12211 of 2020

Suresh Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jasjit Singh Bedi, Senior Advocate with
Mr. Rubal Garg, Advocate for the petitioner
in Crl.Misc.No.M-12198 of 2020.

Mr. Amit Jhanji, Advocate for the petitioner
in Crl.Misc.No.M-12211 of 2020.

Mr. Deepak Sabherwal, Additional Advocate General,
Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, the abovementioned two petitions are being decided as the prayer of the petitioners in both these petitions relates to the grant of concession of regular bail in respect of FIR No.230 dated 18.05.2019 under Section 384 IPC 1860 and Section 7,8,9 and 13 of Prevention of Corruption Act, 1988, registered at P.S. Sampla, District Rohtak.

Learned senior counsel for the petitioners argues that in

the FIR No.230 dated 18.05.2019, there were more than one accused

and the allegations in the FIR were against one Sh. Ravinder Kumar @ Kala and Sh. Surender Rathi that they were extorting money from the transporters for the clearance of their overloaded vehicles from the barrier so as to prevent them from being challaned and each vehicle was being charged ₹8,000/- for the said purpose. Learned senior counsel further submits that as per the allegations, the amount which was being extorted by Sh. Ravinder Kumar @ Kala and Surender Rathi, was being forwarded to the officers working in the transport department, namely, Sh. Amit, who was working as a Clerk in the office of the Regional Transport Authority as well as the petitioner in these petitions i.e. Manish Madan, who was working as Assistant Secretary in RTA Office and Sh. Suresh Kumar, who was working as Personal Assistant to the Deputy Commissioner, Dadri.

Learned Senior counsel appearing on behalf of the petitioner submits that this Court has already extended the concession of Regular Bail to Sh. Ravinder Kumar @ Kala while deciding Crl.Misc.No.M-1182 of 2020 on 25.02.2020. The same benefit of regular bail has also been granted to Surender Rathi while deciding Crl.Misc.No.M-7321 of 2020 on 25.02.2020. Lerved Senior counsel further submits that even the Clerk of the RTA Office, namely, Amit has also been granted the benefit of Regular Bail while deciding Crl.Misc.No.M-9301 of 2020 on 06.03.2020.

Learned senior counsel argues that allegations alleged against Sh. Amit and the present petitioners are the same and, therefore, the petitioners are also entitled for the grant of benefit of regular bail on the principal of parity as the similarly situated co-

accused has already been granted the said concession by this Court.

Learned counsel appearing on behalf of the respondents admits that the allegations alleged against the present petitioners are akin to the allegations alleged against Sh. Amit and Sh. Anil has already been granted the benefit of regular bail by this Court. Learned counsel for the respondents submits that the only fact which differentiate the case of the petitioners and Sh. Amit is that amount recovered from these accused is more than Sh. Amit.

I have heard the counsel for the parties and have gone through the record with their able assistance.

It is not disputed by the State counsel that the accused Ravinder Kumar @ Kala as well as Sh. Surinder Rathi, who, as per the allegations alleged in the FIR, were extorting the amount from the transporters, have already been extended the benefit of regular bail by this Court while deciding Crl.Misc.No.M-1182 of 2020 decided on 31.01.2020 and Crl.Misc.No.M-7321 of 2020 decided on 25.02.2020 respectively. Further, the learned State counsel has admitted that the allegations in the FIR against the present petitioners are similar to that of Amit, who was also working in the office of the Regional Transport Authority and has already been extended the benefit of regular bail by this Court while deciding Crl.Misc.No.M-9301 of 2020 decided on 06.03.2020. Amount which has been recovered from the accused has already been taken notice by this Court while extending the benefit of regular bail.

The relevant portion of the order passed by this Court in

Crl.Misc.No.M-9301 of 2020 in respect of Sh. Amit is a under:

“Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.230 dated 18.05.2019 registered under Section 384 IPC and Sections 7, 7-A, 8, 9 and 13 of the Prevention of Corruption Act at Police Station Sampla, District Rohtak.

Petitioner is a clerk in RTA Officer. Allegations are that the accused are involved in extorting money from the transporters for clearance of the overloaded vehicles from the barrier and preventing them from being challaned. It has been alleged that for each vehicle, they used to charge Rs.8000/- from the driver. An amount of Rs.8,10,000/-, 1 laptop, 1 pan drive and 1 mobile have been recovered at the instance of the petitioner from the rented accommodation of one Manish Madaan who is Assistant Secretary in the office of RTA and has also been arrayed as co-accused in the present case. An amount of Rs.42 lacs has been recovered from Manish Madaan.

Learned counsel for the petitioner submits that it would be debatable as to whether recovered amount can be treated to be tainted money for the purpose of prosecution of the case under the provisions of Prevention of Corruption Act. Petitioner has not been arrested in a trap case. Recovery has not been effected from the person of the petitioner nor from his house.

The recovery of the amount would remain debatable as the same is not having any configuration of any tainted money. The police has recorded 33 statements of transporters under Sections 161 and 164 Cr.P.C. The date of making the said statements viz-a-viz the date of alleged payments to the petitioner would also remain debatable. At this stage, these statements cannot be conclusively commented upon, lest it may prejudice the case of either sides.

The statements of the transporters viz-a-viz the amount allegedly paid by them and the recovery by the police would be tested at the threshold of identity of the currency. The statements of the transporters appear to be silent with regard to the date of alleged payment to the accused persons. In the absence of the date, it would be debatable as to whether the amount recovered from the accused was the same amount which was allegedly paid by the transporters to the accused for getting their vehicles cleared from the barrier.

Learned State counsel on instructions from ASI Arvind Kumar states that out of 69 prosecution witnesses, one witness has been examined in chief. Next date is 19.03.2020 for remaining prosecution witnesses. Investigation is still in progress qua some of the accused, who have not been arrested so far. Learned State counsel also points out that CRM-M No.33223 of 2019 filed by one of the accused namely Suresh Kumar, PA to Deputy Commissioner has been dismissed by the Co-ordinate Bench on 07.12.2019.

Learned counsel for the petitioner states that Ravinder Kumar @ Kala and Surender Rathi have been granted concession of regular bail by this Court in CRM-M No.1182 of 2020 and CRM-M No.7321 of 2020 on 31.01.2020 and 25.02.2020 respectively.

Looking to the controversy in terms of statements of transporters and the identity of the currency which was allegedly recovered, it would be debatable as to the complicity of the petitioner. It appears that the statements of transporters in the context of identity of the amount was not brought to the notice of the Court in Suresh Singh's case supra.

Since this Court has granted concession of regular bail to the

accused namely Ravinder Kumar @ Kala and Surender Rathi, therefore, at this stage, without meaning anything on merits of the case, the petitioner is directed to be released on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate.”

Once, the similarly situated accused have already been granted the concession of regular bail, nothing has been pointed out by the learned State counsel to deny the same benefit to the petitioners in these petitions. Hence, without commenting upon the merits of the case, petitioners are directed to be released on regular bail subject to their furnishing of adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

May 13, 2020

jt

**(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No