

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(207)

CRM No. M-19632 of 2020

Date of Decision : 07.08.2020

Dilkhush

....Petitioner

Versus

State of Punjab

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Fatehjeet Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab.
(keeping in view advance copy given)

Harsimran Singh Sethi, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in respect of FIR No. 24 dated 27.02.2020, under Sections 326, 307, 451, 427, 120-B, 148, 149 IPC, registered at Police Station Division No. 7, District Police Commissionerate, Jalandhar.

Learned counsel for the petitioner submits that petitioner was not named in the FIR but has been subsequently roped in this case on the basis of the disclosure statement of the co-accused. Learned counsel further submits that main accused, namely, Vijay Kumar was granted anticipatory bail by this Court while deciding CRM No. M-12038 of 2020 on 08.07.2020. Learned counsel for the petitioner further submits that co-accused, namely, Jiwan Jyoti @ Joti and Arjun Kumar have also been

granted the benefit of regular bail by this Court while deciding CRM No. M-13941 of 2020 and CRM No. M-14436 of 2020 respectively on 18.06.2020.

Learned counsel for the petitioner claims parity with the co-accused and prays that he be also extended the benefit of regular bail.

Notice of motion.

Mr. Luvinder Sofat, learned Assistant Advocate General, Punjab, who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent-State and has produced custody certificate of the petitioner, which is taken on record.

Learned State counsel on instructions from ASI Avtar Singh submits that the claim of the petitioner of parity between co-accused is not made out as in the present case, petitioner Dilkhush was nominated by the complainant himself in his supplementary statement, whereas co-accused Jivan Jyoti and Arjun Kumar were nominated by Dilkhush (petitioner herein).

I have heard learned counsel for the parties and have gone through the record very carefully.

It is not disputed in the present case that the challan has already been presented on 18.06.2020 and there is no recovery, which is to be done from the petitioner. Further, learned State counsel does not dispute that the main accused Vijay Kumar has already been granted the benefit of anticipatory bail by this Court while deciding CRM No. M-12038 of 2020 on 08.07.2020 and the other co-accused, namely, Jiwan Jyoti @ Joti and

Arjun Kumar have been granted the benefit of regular bail by this Court while deciding CRM No. M-13941 of 2020 and CRM No. M-14436 of 2020 on 18.06.2020 respectively and the said order is reproduced as under: -

“The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No.24, dated 27.02.2020, under Sections 307, 326, 451, 427, 120, 148 and 149 of the Indian Penal Code, registered at Police Station Division No.7, Jalandhar, District Jalandhar.

[2]. Contends *inter alia* that the petitioner has remained in detention since 11.04.2020. He was not named in the original FIR. Subsequently, the complainant gave a supplementary statement on the basis of which, involvement of the petitioner was apparently determined by the Authorities. Further submits that Vijay Kumar the only accused person, specifically named in the case, has already been granted bail by a Coordinate Bench of this Court on 07.05.2020 in CRM-M-12038-2020.

[3]. Ld. State Counsel does not dispute the above facts.

[4]. In the given circumstances, further detention of the petitioner for an indefinite period at this stage is not warranted and he is ordered to be released on regular bail, subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

[5]. Disposed off.”

A bare perusal of the order passed by this Court while granting bail to Jiwan Jyoti @ Joti, would show that the contention raised therein

that Jivan Jyoti was also nominated by the complainant in the supplementary statement, has not been controverted at the time of passing of the order by this Court on 18.06.2020.

That being so, petitioner has made out the case for the grant of regular bail.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail on his furnishing bail/surety bonds, subject to the satisfaction of trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not obstruct the trial in any manner or influence the witnesses, whose statement is yet to be recorded and in case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

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.

August 07, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? No