

201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25877 of 2020 (O&M)

Date of Decision : 10.09.2020

Kamalpreet Singh @ Kamal

...Petitioner

Versus

State of Punjab

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.S. Jaidka, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

CRM-21789 of 2020

As prayed for, application is allowed.

CRM-M-25877 of 2020

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.67 dated 04.03.2020 under Sections 392, 379-B and 34 IPC (Later on added Section 411 of IPC) and Section 25 of the Arms Act, 1959 registered at Police Station Division No.6, District Ludhiana.

Learned counsel for the petitioner argues that the petitioner is a jeweller and the allegations which have been alleged against the petitioner in the present FIR are incorrect and the petitioner has wrongly been roped in the present FIR. Learned counsel for the petitioner further submits that there

are four accused, who have been arrayed in the present FIR and the co-

accused Rajesh Kumar, Ishan Purewal @ Billa and Sumit Sandhu have already been granted the benefit of regular bail by this Court and, therefore, keeping in view the parity, the petitioner is also entitled for the grant of regular bail.

Notice of motion.

Mr. Sandeep Singh Deol, DAG, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition accepts notice on behalf of respondent-State.

Learned State counsel submits that parity, which is being claimed by the petitioner in the present case alongwith the other co-accused is not correct as 584 grams gold ornaments have been recovered from the petitioner. Further, the weapon as well as the turban worn by the petitioner have also been recovered from him and, therefore, the petitioner is not entitled for the grant of regular bail in the present case.

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

The allegations in the FIR against all the four accused are similar in nature. Once the allegations are similar in nature and other co-accused have already been granted the benefit of regular bail by this Court, the same benefit cannot be denied to the petitioner unless and until there are differentiating facts between the petitioner and the other co-accused, who have been enlarged on bail.

In the present case, the ornaments as well as the clothes worn by the petitioner on the date of incident are stated to be recovered from the the petitioner. The petitioner is claiming himself to be a jeweller. Whether recovered ornaments are stolen property or not is yet to be proved in the

Court of law. Once, it is conceded that the co-accused, against whom the similar allegations have been alleged, have been granted the benefit of bail by this Court, the petitioner has made out a case for the grant of regular bail. The order passed by this Court while deciding CRM-M-20434 of 2020 on 11.08.2020 in the case of co-accused Rajesh Kumar is as under:-

“Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.67 Dated 04.03.2020 registered under Sections 379-B, 34 IPC and Section 25 of Arms Act, 1959 (Sections 392, 411 IPC and Sections 54, 59 of Arms Act 1959 were added later on) at Police Station Division No.6, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the FIR in question, which was registered against unknown persons. The petitioner was arrayed as an accused only on the statement of co-accused Sumit Sandhu, who has since been enlarged on bail by this Court vide order dated 21.07.2020. He further contends that the petitioner is behind bars since 20.03.2020 and till date only challan has been presented before the trial Court.

Per contra, learned State counsel while opposing the prayer of learned counsel for the petitioner has not been able to controvert the factual aspect of the submissions made by learned counsel for the petitioner. She on instructions from ASI Binder Singh has conceded that challan was filed before the trial Court on 11.06.2020 and the charges are yet to be framed. She also apprised the Court that the petitioner is not involved in any other case of

similar nature.

Heard.

In view of the submissions made by learned counsel and the fact that the petitioner has been in custody since 20.03.2020, the trial is unlikely to conclude in the near future more so in the wake of outbreak of pandemic Covid-19. Hence, the present petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.”

Keeping in view the facts noticed above, especially, when the trial is likely to take some time before it concludes, keeping the petitioner behind the bars will serve no purpose.

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

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, 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.

September 10, 2020
aarti/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No