

Mohd. Anbar and another

...Petitioners

## Versus

## State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Kanwlajeet Singh, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

\*\*\*

**B.S. Walia, J. (VC)**

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in case FIR No.149 dated 05.04.2021 registered under Sections 379, 411, 467, 468 and 471 IPC at Police Station Division 5, District Police Commissionerate, Ludhiana.
3. Learned counsel contends that the FIR was registered on the basis of secret information that SanjeetVerman, GajinderMahto, i.e. leaders of the gang, besides, Mohd. Anwar,Mohd. Ishtakar, Mohd. Hannan, Mohd. Khalid, Pappu, AjitVerman @ Pechu etc in connivance with each other had formed an inter-state gang to commit theft of underground cables of BSNL and had committed thefts in the State of Punjab besides other states during night time by impersonating BSNL workers and by using Mahindra Bolero vehicle bearing registration No. DL1LAE 2131 belonging to and driven by

Rohit Kumar, and that if raid was conducted immediately, the accused could be apprehended red handed at Shiv Mandir, near Pandtan Da Dhaba, Ferozepur Road, Ludhiana, whereupon the petitioners and 6 others were arrested and forged letters reference No.0051 dated 10.02.201, besides, Mahindra Bolero Pickup bearing registration No.DL1LAE-2131 along with 08 pieces of telephone wires, 01 iron hammer, 07 jackets of orange and silver colour and 07 helmets of yellow colour recovered from the possession of the petitioners and co accused.

4. Learned counsel contends that the petitioners are labourers and were engaged by Sanjeet Verman and Gajinder Mahto for doing labour work, that they are in custody since 05.04.2021, Challan has been presented though charges are yet to be framed, trial is likely to take considerable period of time to conclude, therefore, no useful purpose would be served by keeping the petitioners behind bars.

5. Learned State counsel on the other hand contends that petitioner No. 1 is a habitual offender as three FIRs (i.e. FIR No.73 dated 02.03.2021 under Section 379 at Police Station Division No.8, Ludhiana, FIR No.88 dated 17.03.2021 under Sections 379 and 411 IPC at Police Station Focal Point, Ludhiana as also FIR No.42 dated 23.03.2021 under Section 379 IPC at Police Station Division No.6, Jalandhar) stands registered against petitioner No.1qua the offence of stealing of BSNL wires, therefore, petitioner No. 1 being a habitual offender is not entitled to grant of regular bail.

6. In response thereto, learned counsel for the petitioners states

that no doubt the aforementioned FIRs are of period prior to the date of arrest of petitioner No. 1 in the instant case i.e. 05.04.2021, but petitioner No. 1 was not named in the aforementioned FIRs and was nominated as accused only on the basis of confession made by him while in police custody in the instant case. Learned counsel further contends that petitioner No.1 was released on regular bail vide order dated 19.07.2021 in BA/7868/2021 by the Court of Sh. Rajiv Kumar Garg, learned Judicial Magistrate 1<sup>st</sup> Class, Ludhiana in case FIR No.73 dated 02.03.2021 registered under Section 379 at Police Station Division No.8, Ludhiana.

7. I have considered the submissions of learned counsel for the parties.

8. Admittedly, petitioners along with six others co-accused were caught red-handed along with 08 pieces of telephone wires, 01 iron hammer, 07 jackets of orange and silver colour and 07 helmets of yellow colour along with Mahindra Bolero Pickup vehicle bearing registration No. DL1LAE 2131 belonging to Rohit Kumar, the petitioners are in custody since 05.04.2021 and the other three cases referred to above although registered prior to the arrest of petitioner No. 1 in the instant case, yet petitioner No. 1 is not named in the FIRs in the aforementioned cases and has been nominated as accused in said three cases solely on the basis of confessional statement made by him while in police custody in the instant case and there is no FIR against petitioner No.2 as the other three FIRs are only against petitioner No.1. Besides, challan has been presented though charges are yet to be framed. Trial in the case would take considerable period of time,

therefore, no useful purpose would be served by keeping the petitioners behind bars.

9. Accordingly, the present petition is allowed. Petitioners- Mohd. Anbar son of Belal and Mohd. Istakhar @ Mohd. Iftakhar son of Kuddus Mohd. are ordered to be released on regular bail during the pendency of the trial subject to their furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, including by imposition of conditions to secure the presence of the petitioners to face trial and provided they are not required in any other case. The petitioners shall also comply with the conditions contained in Section 437(3) Cr.P.C. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

(B.S. Walia)  
Judge

03.08.2021  
'Amit'

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