

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: July 08, 2021

1. CRM-M-22656-2021 (O&M)

Kulwinder

...Petitioner

Versus

The State of Haryana

...Respondent

2. CRM-M-23482-2021 (O&M)

Sandeep Kumar & another

...Petitioners

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vipul Aggarwal, Advocate,
for the petitioners in both the cases.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

CRM-18311-2021 in CRM-M-22656-2021

Prayer in the application is for addition of Section 120-B IPC
on the ground that when the challan was presented in the court, offence
under Section 120-B IPC was also added.

Notice of this application.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana accepts notice on
behalf of the State and does not oppose the prayer.

In view of the above, the application is allowed and the offence
under Section 120-B IPC is ordered to be added.

CRM-M-22656-2021

Petitioners have filed these separate petitions under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.23 dated 07.02.2021, under Sections 379, 447, 511 IPC, 1860 and Section 120-B IPC (added later on), Sections 15 and 16 Petroleum and Mineral Pipelines (Acquisition of Right of user in Land) Act, 1962 and Sections 3 and 4, Public Property (Prevention of Damage) Act, 1985, registered at Police Station, Kalan Wali, District Sirsa. The petitioners are in custody since their arrest on 09.03.2021.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Sirsa, in the order dated 29.4.2021, are as under:-

“The facts of the case, which are essential for disposal of this bail application are that on 07.02.2021, Vikash Chander Pareek, Assistant Manager, Security Department HPCL-Mittal Pipelines Limited IPS4 visited to the Police Station, Kalanwali and moved an application regarding theft of crude oil from embedded pipeline. It is further averred in the application that on 6.2.2021, Walker Lal Chand, noticed a piece of land 2 inch x 2 inch pressed than the average level of the land. He informed in this regard to Hardeep Singh, Supervisor and Security Incharge, who directed the Line Walker to conduct search after removing the sand from the said doubtful pressed piece of land. On conducting further search, a 50 Kg Cement bag filled with sand was found kept concealed underneath the said pit. After continuing the search in this regard, some other cement bags full of sand were found lying in the pit. Information in this regard was given in HMPL by SIC Hardyal Singh. Sh.Vikash Chander, Asstt. Manager directed to above named Hardyal Singh and Maintenance Team to reach at the pointed place. On reaching of the team of their company Malkiat Singh, owner of the land in question, who has already

visited the fields, was called to come again at the alleged pointed place and in the presence of owner of the land, they conducted search and the Maintenance Team found 39 plastic bags filled with sand and one empty bag was taken out. Thereafter, removing of all the bags, the Maintenance Team on a depth level of about 5 foot 8 inches, noticed a 30 inches pipe line, whereupon a pipe line of two inches and plunge was found to have been wielded, which seems to have been installed for conducting theft of crude oil.”

Learned counsel for the petitioners has argued that as per the prosecution itself, the alleged offence amounts to attempt only and even the names of the petitioners do not figure in the FIR. He submits that the trial is likely to consume considerable time to conclude as the charges are yet to be framed. He has produced the copy of the order dated 10.06.2021 passed in CRM-M-20744-2021, whereby similarly situated co-accused Kranti Kumar has been granted the concession of regular bail. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Balwant Rai, on the ground that the petitioners are involved in the alleged crime of stealing the crude oil from the pipeline. It is pointed out that the investigation of the case is complete, as the final report stands filed on 05.05.2021, but the charges are yet to be framed and the next date before the trial court is 09.07.2021 for framing of charges. However, it is not disputed by him that the co-accused has already been granted the concession of regular bail.

After hearing the learned counsel for the parties and considering the custodial period of the petitioners, this court is of the opinion that though the final report stands filed, but the charges are yet to be framed. Apart from it, the similarly situated co-accused has already been

released on regular bail. Thus, the further detention of the petitioners behind the bars may not be necessary for any useful purpose, who are presently confined in judicial custody after their arrest on 09.03.2021.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Sirsa.

July 08, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No