

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.33604 of 2020
Date of Decision : 29.01.2021**

Jagpal Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CRM-M No.32761 of 2020 (O&M)

Baljinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Guninder S. Brar, Advocate
for the Petitioners (in CRM-M No.33604 of 2020) and
for the Complainant (in CRM-M No.32761 of 2020)

Mr. B.S. Sewak, Addl. Advocate General, Punjab.

Ms. Manju Goel, Advocate
for Respondent No.3-CBI (in CRM-M No.33604 of 2020).

Mr. Kanwaljit Singh, Senior Advocate assisted by
Mr. Gautam Dutt, Advocate
for Respondent No.7 (in CRM-M No.33604 of 2020) and
for the Petitioner (in CRM-M No.32761 of 2020).

SUDIP AHLUWALIA, J. (ORAL)

CRM-M No.33604 of 2020 (O&M)

Ld. Counsel for the State submits that after completion of investigation, Challan has already been submitted against the accused persons in the Ld. Trial Court.

2. To that extent the present Petition would appear to have been rendered infructuous and is disposed off as such.

3. In case, the Petitioners have any grievance against the Final Report/Challan submitted against the accused persons, they are at liberty to seek appropriate remedy in accordance with law.

CRM-M No.32761 of 2020 (O&M)

**CRM No.1267 of 2021 and
CRM No.30672 of 2020**

Allowed as prayed for.

Main Case

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.0106, dated 04.07.2020, registered under Sections 166-A, 295-A, 323, 342 (wrongly typed as 242), 201 of the Indian Penal Code, Sections 3(1)(iv), 3(1)(v), 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 67 of the Punjab Police Act, 2007 and Sections 66(E), 67(A) of the Information Technology Act, 2000, at Police Station City Khanna, District Khanna.

2. After completion of investigation, Challan against the Petitioner has already been submitted.

3. Co-accused-Varun Kumar has already been granted Regular Bail by this Court after completion of investigation *qua* him in CRM-M No.40446 of 2020 on 15.12.2020.

4. Bail prayer of the present Petitioner is however strongly opposed on behalf of the Complainant, whose Ld. Counsel has sent up on WhatsApp Group a Video Clipping as also photographs extracted from the same to show that he along with some other persons was stripped and Videographed inside the Police Station of which the Petitioner happened to be the Officer In-charge at the relevant time. Ld. Counsel for the Complainant thereafter submits that the Petitioner wields high influence being a Police Officer, and thereafter would be in a position to create wrongful pressure upon his Client during trial on account of which he submits that the Petitioner should be detained in custody till the next date fixed in the Ld. Trial Court i.e. 03.02.2021 so as to enable the Complainant to give his evidence before the said Court on that date. Ld. Counsel for the Complainant has separately sent up on E-mail a copy of the order passed by the Ld. Trial Court/Additional Sessions Judge, Ludhiana on 22.01.2021, from which it transpires that the date has been actually fixed for 03.02.2021 for the Petitioner's production and consideration on the point of taking voice sample.

5. It is therefore clear that the next date fixed by the Ld. Trial Court is certainly not meant for recording evidence of either the Complainant or anyone else from the prosecution side. Consequently, the Court asked the Complainant's Counsel to clarify as to whether the Charges in the case have already been framed, to which his answer was 'No'.

6. This position would tend to indicate that deposition of the

Complainant as a prosecution witness is certainly some way off at this stage, and not likely to be taken up any time very soon, since consideration and framing of charge is a *sine qua non* before commencing evidence from the prosecution side in a warrant triable case arising out of the Police Report.

7. Faced with this Ld. Counsel for the Complainant submits that the Ld. Trial Court can be asked to frame the charges on the date already fixed.

8. This Court however does not agree with the nature of such submission. The Complainant cannot be permitted to dictate his own methodology regarding the procedure to be followed by the Trial Court just with a view to ensure that the accused against whom the Final Report has already been submitted is not able to get released on bail on one pretext or the other. This is so because when the offences imputed to the Petitioner are taken up for consideration i.e. offences under Sections 166-A, 295-A, 323, 342, 201 of the Indian Penal Code, Sections 3(1)(iv), 3(1)(v), 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 67 of the Punjab Police Act, 2007 and Sections 66(E), 67(A) of the Information Technology Act, 2000, it is seen that the most heinous amongst the same happens to be the one under Section 67(A) of the Information Technology Act, 2000 for which the maximum punishment prescribed is imprisonment upto seven years, followed by the offence under Sections 3(1)(iv) and 3(1)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for which the maximum prescribed

punishment is imprisonment for five years.

9. In these circumstances, this Court is of the view that further detention of the Petitioner at this stage for an indefinite period is not called for, and his further incarceration after completion of investigation against him should not be punitive in nature considering that by now he has already remained in detention for nearly five months since 05.09.2020, particularly when Co-accused Varun Kumar has already been released on bail.

10. The Petitioner is therefore permitted to be released on bail subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

11. Further, it is directed that the Superintendent of Police, Khanna, District Ludhiana who is Respondent No.6 in the connected CRM-M No.33604 of 2020, shall take appropriate steps to ensure that no threat or pressure at the behest of the Petitioner is exerted upon the Complainant during pendency of the entire trial, and the Complainant is also at liberty to seek cancellation of the bail, if he can show any tangible material before the Court concerned indicating any threat to his personal security or any kind of undue pressure being exerted upon him on behalf of the Petitioner.

12. Disposed off.

January 29, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No