

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.213

CRM-M-32432-2021(O&M)
Date of decision: 14.07.2022

SAMPAT SINGH

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Rohit Mittal, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

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VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case bearing FIR No.02 dated 02.01.2021 under Sections 406, 420, 467, 468, 471, 201, 120-B and 34 of the Indian Penal Code registered at Police Station Nagal Choudhary, Narnaul District Mohindergarh (Annexure P-1).

Pursuant to the order dated 14.02.2022, a status report has been filed by way of affidavit of Vikrant Bhushan, IPS, Superintendent of Police, District Mahendergarh on behalf of respondent-State. The relevant extract thereof, reads as under:-

“1. That during the investigation the GST department was also associated in the investigations to verify the ramifications of this scam. Since the company must have obtained a license or permit from the Mining Department Haryana for running the mining work, the documents

were collected upon the mining Department in this regard and in the police record it is mentioned that the GST Department is conducting its own investigations. Both the above named arrested accused made disclosure statements alleging their working in the company on the monthly salary and as per the directions of the owner of the company, they used to prepare underweight slips showing the actual weight of the consignment, which used to be 2/3 times more than the weight shown in the e-Rawana. In this way, they disclosure that the company's owners were selling the minerals illegally and also used to get the cost of the extra quantity in cash without showing it in the books. The GST Department also verified this fact by issuing two weighting slips and challans showing the same vehicles at the same time with two different weights of the consignment amounts to evasion of GST.

2. *That on 7/7/2021 the present petitioner Sampat Singh was also arrested in the present case who was the person who used to prepare the fabricated and forged computer generated documents by using an illegal software being qualified computer operator and accordingly computer used by the Company alongwith its CPU etc. were taken into police possession by the investigating officer. The petitioner being the computer operator of the company and was knowingly prepared false and fabricated transit pass and e-ravanas showing underweight of the consignment alongwith the weighing slips of the actual weight showing the same particulars of the transit pass and the vehicles, date and time etc, and the company used to pay him some extra money for this and this all being done with the help of an illegal software loaded in the computer system by the petitioner.*

3. *That the name of the petitioner has surfaced after recording the disclosure statement of co-accused Subharto Sarkar who has disclosed that Sampat Singh is working as Computer Operator who is involved in the crime. During the investigation accused Sampat Singh i.e. the*

petitioner was joined in the investigation on 7/7/2021 and he was arrested in the present case. During investigation the petitioner had suffered his disclosure statement wherein he has admitted his involvement in the present crime and in pursuance of his disclosure statement he got C.P.U. and printers recovered which were used in making the forged e-ravana etc. which were taken into possession vide recovery memo. The petitioner was produced in the L.d. Court of Illaqa Magistrate, Narnaul on 8/7/2021 and was taken on two days police remand and after completion of police remand he was produced in the Ld. Court on 10/7/2021 from where he was sent to Judicial Custody and since then he is confined in District Prison, Narnaul. After completion of investigation in respect of the petitioner and co-accused Subarto and Sushant, the challan/final report u/s 173 Cr.P.C has been presented in the Ld. Court on 11.10.2021 and now the case is fixed on 20.05.2022 for framing of charges in the Ld. Court of Sh. Amandeep, JMIC, Narnaul. It is pertinent to mention here that in compliance of order dated 14.02.2022 passed by this Hon'ble Court in the present case, the petitioner has furnished the bail bonds in the sum of Rs. 1,00,000/- with one surety in the like amount in the Ld. Court of Sh. Amandeep, JMIC, Narnaul on dated 18.02.2022. (Copy of order dated 18.02.2022 is enclosed herewith as Annexure R-1).

4. *That as per record of the Police Station, Nangal Chaudhary, no other criminal case is found registered/pending against the petitioner except the present case and he has not declared as proclaimed offender in any case at any point of time.*

5. *That during the investigation, the investigating officer made his best efforts to arrest the named accused Mahesh Nimawat whose name was also disclosed in the disclosure statements of co-accused Sushant Mandi and Subharto Sarkar, but he could not be apprehended and the investigating officer got issued his arrest warrant on 20.09.2021 for 16.11.2021 and on 16.11.2021 for 10.12.2021 from the Ld. court of Illaqa*

Magistrate, Narnaul but he could not be arrested despite the best efforts made by the investigating officer and vide order dated 7.12.2021 passed by Ld. Court of Sh. Sudhir Jiwan, Addl. Session Judge, Narnaul his anticipatory bail was allowed. In compliance of the order dated 7.12.2021, he joined the investigation on 30.12.2021 and released on police bail after furnishing the bail bond.

6. *That during the investigation, it has been established that Nimawat Granite Company, Bakhrija was selling minerals illegally by way a systematic fraud of under billing of bills with Bogus weighting slips leading to huge loss to the state exchequer towards taxes and duties by committing acts of forgery of accounts books of the accused company and the entire modus operandi of the scam is already detailed by complainant in his complaint itself and further verified by the GST Department and supported by the mining department also. The company has fabricated the transit pass and e-ravanas and thereby caused a great loss to the state exchequer in form of GST and other permissible duties. The company and its employee had committed the serious offence by violating the rules. The petitioner was working as computer operator in Nimawat Granite Company, Bakhrija and he had fabricated the transit pass and e-ravanas and thereby caused huge loss to the state exchequer. The petitioner cannot claim himself to be innocent as he was part and parcel of the entire conspiracy and modus operandi as the petitioner never reported the matter to the police and continue to enjoy the extra benefits and thus, no benefit of being employee can be given to him. It is a case involving a big scam where the minerals are being sold by the accused company and its owner by fabricating the transit pass and e-Ravanas and thereby causing a great loss to the State Exchequer in the form of GST and other permissible duties besides causing a nuisance on the road by running over loaded vehicles in violation of the Motor Vehicles Act as well as in violation of the Mining Act. The allegations further shows that apart from*

the offences under the IPC, the company and its employees are also liable to the prosecuted under The Mines and Minerals (Development and Regulation) Act and Haryana Mining Rules, 2012 being violations of mining permits and illegal transportation of the minerals.

7. *That a fair and proper investigation is being conducted in the present case by the investigating officer to unearth the entire scam to the root and to arrest the actual culprits. The investigating officer got issued the arrest warrant of co-accused Satish Kumar, Vikash Kumar, Parmod Nimawat, Sangita Nimawat and Krishan Nimawat who are the partners of the firm M/s Nimawat Granite Pvt. Ltd. alongwith co-accused Aashish Kurekha and Puranmal Bhatti who are the management's member of M/s Nimawat Granite Pvt. Ltd. on 20.09.2021 for 16.11.2021, on 16.11.2021 for 10.12.2021, on 10.12.2021 for 10.01.2022 and on 10.01.2022 for 14.02.2022 from the Ld. Court of Illaqa Magistrate, Narnaul but they could not be arrested despite the best efforts made by the investigating officer. Thereafter, on 24.02.2022 the Ld. Court of Illaqa Magistrate, Narnaul had passed the order of proclamation of the above all accused persons and the case was fixed on 20.05.2022 and serving constable was also directed to appear before the Hon'ble Court to get his statement recorded on 20.04.2022. (Copy of order dated 24.02.2022 passed by Ld. JMIC, Narnaul are enclosed herewith as Annexure R-2, R-3, R-4, R-5, R-6 R-7, and R-8). It is pertinent to mention here that on 20.04.2022 the statement of SI, Ranbir Singh has been recorded who stated that publication has been affixed as per direction of the Ld. Court. It is also pertinent to mention here that in this regard, necessary approval has been accorded to announce reward amounting to Rs. 5000/- (Rs. five thousands only) each to the person(s) giving any information leading to the arrest of the accused persons namely Satish Kumar, Vikash Kumar, Parmod Nimawat, Sangita Nimawat, Krishan Nimawat, Aashish Kurekha and Puranmal Bhatti. (Copy of order dated 24.02.2022 passed by IGP, South*

Range, Rewari is enclosed herewith as Annexure R-9). Hence, keeping in view the gravity of the offence as well as the facts, it is clear that the petitioner was employee of the company but he cannot claim himself to be innocent as he was part and parcel of the entire conspiracy and modus operandi, especially when he never reported the matter to the police and continue to enjoy the extra benefit and thus, no benefit being employee can be given to the petitioner and the petition of the petitioner deserves to be dismissed.”

From the perusal of the above, it is apparent that the Police Authorities are sensitized along with the other authorities of the mining department regarding the gravity of the offence. However, this Court would not wish to expand the scope of the present petition by seeking concession of regular bail at this stage and taking into consideration the fact that the petitioner has already undergone an actual custody of more than 7 months and a final report against him already stands filed, his continued custodial detention would not be necessary.

In view of the above, the order dated 14.02.2022, granting the concession of interim bail to the petitioner is made absolute.

14.07.2022
Amandeep

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No