

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-35054-2022 (O & M)****Date of decision: 28.09.2022**

Sethpal

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aman Pal, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.215 dated 08.05.2022 registered under Section 3 of the Explosive Substances Act, 1908, Sections 268, 285, 286, 379, 148, 149, 411, 120-B and 201 IPC and Section 3 and 4 of Prevention of damage to Public Property Act, 1984, Section 3 and 4 of the Motor Spirit and High Speed Diesel Order, 1998, Section 4(b)(1), 5(a) and 6 of the Explosive Substances Act, 1908, Section 7 of Essential Commodities Act, 1955, Section 15 of Petroleum and Pipelines Act, 1962 and Section 23(2) of Petroleum Act, 1934 at Police Station Sampla, District Rohtak.

2. The prosecution case in brief is that the complainant-Narain Singh, who is working as Field Officer in the Security Services of HPCL Pipeline, stated that on 07.05.2022, the team reached at the spot and found that there was a theft of petrol taking place as a hole had been made in the pipeline. The matter was reported to the Police, on the basis of which, the formal FIR was registered.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR nor has any specific role been attributed to him and he has been named in the disclosure statement of his co-accused Parmod. In fact, one Parmod was arrested and disclosed that Jai Kanwar, Narendra @ Anna, Dinesh, Sunil and Vijay Chhillar were involved in the theft of the oil and the petitioner would help them in selling the same. Similar is the disclosure statement of Vijender @ Kala. He contends that recovery of Rs. 1,00,000/- and a mobile phone from the petitioner cannot connect him with the commission of the alleged offences. Even otherwise, from the disclosure statement of the co-accused, it is seen that the co-accused had contacted the petitioner after the occurrence of the offence. Since the petitioner is a first-time offender, in custody since 27.05.2022 and none of the 38 prosecution witnesses had been examined, the Trial was not likely to be concluded in the near future, and thus, the petitioner was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, filed a reply dated 20.09.2022 by way of an affidavit of Ms. Medha Bhushan, IPS, Assistant Superintendent of Police, Sampla, District Rohtak. As per the said reply, during the course of investigation, the co-accused, namely, Parmod, Jai Kanwar, Narendra were arrested and their disclosure statement was recorded. As per the said disclosure statement, Parmod got recovered oil tankers, Baleno Car bearing Registration No. DL-2CBC-8308 and cash Rs.2,48,000/-. He disclosed that he alongwith Narendra @ Anna, Jai Kanwar, Vijay Chhillar, Sunil Banda, Dinesh Rathi and Devender hatched a conspiracy to steal oil from the pipeline and the accused had included their drivers including the petitioner-Sethpal in their plan, pursuant to which, the oil was stolen. He contends that one-by-one all the accused, namely,

Narendra, Vijender @ Kala, Deepak, Mahabir, Ranbir, Ravider @ Kala, Partap Singh, Vijay Chhillar, Dinesh Rathi and the petitioner-Sethpal came to be arrested. A recovery of a mobile phone and Rs.1,00,000/- was effected from him. He contends that the serious nature of allegations do not entitle the petitioner to the grant of bail, though, the period of custody and stage of the Trial have been admitted.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, the petitioner is not named in the FIR but in the disclosure statement of his co-accused. The effect of the recoveries made from the petitioner would be a matter of adjudication during Trial. The petitioner is a first-time offender and none of the 38 witnesses have been examined so far. Therefore, the Trial is not likely to be concluded in the near future. In such circumstances, the further incarceration of the petitioner is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sethpal, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. In addition, the petitioner shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

September 28, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No