

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(205)

CRM-M-51547-2021 (O&M)

Date of decision: - 14.02.2022

Rajinder

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Piyush Sharma, Advocate,
for the applicant-petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-2378-2022

Present application has been filed for placing on record
accompanying documents as Annexures P-3 and P-4.

Application is allowed, as prayed for. Accompanied
documents (Annexures P-3 and P-4) are taken on record, subject to all
just exceptions.

CRM-M-51547-2021

This is the first petition under Section 439 of Cr.P.C. for
grant of regular bail in FIR No.131 dated 02.10.2021, under Sections 379-

B and 34 IPC, at Police Station Kulgarhi, District Ferozepur.

Learned counsel for the petitioner has submitted that the FIR has been registered on the statement of Vijay Kumar, who was present at the spot and the said FIR has been registered on his statement to the effect that 3-4 persons with muffled faces had taken away Rs.4.24 lakhs from him. It is submitted that as per the FIR, there was no other person from the complainant side, who was a witness to the said occurrence. It is further submitted that the said occurrence is alleged to have taken place on 02.10.2021 and after a delay of 4 days, one Padam Nabin had given a statement under Section 161 Cr.P.C., in which, he has stated that he takes care of the whole business of HP Nectar Gas Agency owned by Partha Sarathy Walia and when he learnt about the said occurrence, then, he immediately arrived at the spot. Even in the said statement, the present petitioner has not been named and two persons who have been named are Surinder Singh son of Amrik Singh and Ravinder Singh son of Amrik Singh. It is submitted that after a further delay of 5 days, on 11.10.2021, a supplementary statement has been made by the said Padam Nabin, as per which, he has named Surinder Singh son of Amrik Singh and regarding the second person, he has stated that it was not Ravinder Singh son of Amrik Singh, but was Sukhmander Singh son of Amrik Singh. In the said statement, he has named seven persons in all, including one Nandi son of 'not known' resident of village Gander Police Station Arik Ke. Learned counsel for the petitioner has further submitted that the seven persons have been named by the said Padam Nabin by stating there is some CCTV camera recording from which this came forth, whereas, CCTV camera is

not a part of the challan. It is also submitted that in the FIR only 3-4 persons were mentioned and the said Padam Nabin, in his supplementary statement, which has been recorded after a delay of 9 days from the date of alleged occurrence, has named seven persons in spite of the fact that he is not even an eye witness. It is submitted that the petitioner is not additionally called by the name of Nandi and thus, his implication as Nandi is false. It is further submitted that the petitioner has been in custody since 12.10.2021 and the challan has already been filed and there are 17 prosecution witnesses, none of whom have been examined and the trial is likely to take time to conclude, moreso, in view of the present pandemic and thus, the petitioner deserves the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the recovery of Rs.30,000/- has been made from the petitioner.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that FIR No.131 dated 02.10.2021 was registered on the statement of Vijay Kumar and as per the said statement, 3-4 persons with muffled faces had come in a car and had taken Rs.4.24 lakhs from him. Perusal of the said FIR would show that there was no other eye witness present at the time of occurrence. Padam Nabin had got recorded his statement after a period of 4 days i.e. 06.10.2021, in which, he had not named the present petitioner and in fact he had named two persons i.e. Surinder Singh son of Amrik Singh and Ravinder Singh son of Amrik Singh. On 11.10.2021, i.e. after a delay of 9 days from the date

of occurrence, a supplementary statement of Padam Nabin had been recorded, in which, he has stated that the real name of Ravinder Singh son of Amrik Singh is Sukhmander Singh son of Amrik Singh and in addition to naming Surinder Singh and Sukhmaner Singh, he had named five more persons including one Nandi son of 'unknown', which as per the prosecution case is the present petitioner. The said Padam Nabin is not an eye witness to the said incident and no CCTV recording is a part of the challan. The eye witness/complainant Vijay Kumar, who got registered the present FIR, had stated that there were 3-4 persons, which has now been increased to seven by the said Padam Nabin. The question as to whether seven persons can even fit in one car, is a matter of debate. Learned counsel for the petitioner has submitted that the petitioner is not additionally called by the name of Nandi and thus, his implication on the said account is also illegal. Even the said argument is a matter of debate. The petitioner has been in custody since 12.10.2021 and the challan has already been presented and there are 17 witnesses and none of them have been examined and thus, the trial is likely to take long time, moreso, in view of the present pandemic and thus, the present petition for grant of regular bail deserves to be allowed.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court / Duty Magistrate / CJM, and subject to him not being required in any other case.

It is however made clear that in case the petitioner influences or threatens any witness, then it would be open to the State to move an

application for cancellation of bail of the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

February 14, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes