

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-47867-2022 (O & M)****Date of decision: 21.10.2022**

Mohit

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. M.S. Rana, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, 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 Sections 23(2) Petroleum & Mineral Pipe Line Act (Acquisition of Right to user in Land) Act, 1961, Sections 4(b)(i), 5(a) and 6 of the Explosive Substances Act, 1908, Section 3 and 4 of Prevention of damage to Public Property Act, 1987, Essential Commodities Act, Section 3 and 4 of the Motor Spirit and High Speed Diesel (Regulation of Supply & Distribution & Prevention of Malpractices) Order, 1998 Sections 15 & 16 of Petroleum Act, 1934 and Sections 148, 149, 268, 285, 286, 379, 411, 120-B and 201 IPC registered at Police Station Sampla, 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

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, Vijay Chhillar and the petitioner-Mohit were involved in the theft of the oil and the petitioner was a driver on a Tanker. Similar is the disclosure statement of Vijender @ Kala. He contends that recovery of Rs. 20,000/- from the petitioner cannot connect him with the commission of the alleged offences. Since the petitioner is a first-time offender, in custody since 23.05.2022 and none of the 38 prosecution witnesses had been examined, therefore, 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, stated that during the course of investigation, the co-accused, namely, Parmod, Jai Kanwar, Narendra were arrested and their disclosure statements were recorded. As per the said disclosure statement of Parmod, he got recovered oil tankers, a Baleno Car bearing Registration No. DL-2CBC-8308 and a cash amount of 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 Sethpal and the present petitioner-Mohit 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, Sethpal and the present petitioner-Mohit came to be arrested. A recovery 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 recovery 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, moreso, when his co-accused Sethpal has been granted the concession of bail by this court vide order dated 28.09.2022 passed in CRM-M-35054-2022.

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

8. In addition, the petitioner (or anyone on his behalf) 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

October 21, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No