

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(217)

CRM-M-206-2022 (O&M)  
Date of decision: - 06.07.2022

Sajan and another

....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. O.P. Kamboj, Advocate,  
for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

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**VIKAS BAHL, J. (ORAL**

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 petitioners has submitted that the FIR has been registered on the statement of Vijay Kumar, 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 Nabhin 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 petitioners had not been named and two persons who had been named were 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 had been made by the said Padam Nabhin, as per which, he had named Surinder Singh son of Amrik Singh and regarding the second person, he had stated that it was one Ravinder Singh son of Amrik Singh, but his real name was Sukhmander Singh. In the said statement, he has named seven persons in all, including the petitioners. Learned counsel for the petitioners has further submitted that the seven persons have been named by the said Padam Nabhin by stating that there is some CCTV camera recording from which the same has come forth, whereas, CCTV camera is not a part of the challan. It is also submitted that the FIR was to the effect that only 3-4 persons had committed the offence, however, the said Padam Nabhin, in his supplementary statement, which has been recorded after a delay of 9 days from the date of the alleged occurrence, he has named seven persons in spite of the fact that he was not even an eye witness. It is further submitted that the petitioners have been in custody since 11.10.2021 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 and thus, the petitioners deserve the concession of regular bail.

Learned counsel for the petitioners further submitted that co-accused of the petitioners, namely, Rajinder, has already been granted the concession of regular bail, vide order dated 14.02.2022 passed in CRM-M-51547-2021 and the case of the present petitioners is on a similar footing as that of said co-accused Rajinder and the present petitioners are not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the recovery of Rs.40,000/- has been made from petitioner No.1 and Rs.30,000/- has been made from petitioner No.2.

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 Nabhin had got recorded his statement after a period of 4 days i.e. 06.10.2021, in which, he had not named the present petitioners and in fact he had only 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 the alleged occurrence, a supplementary statement of Padam Nabhin had been recorded, in which, he had stated that the real name of Ravinder Singh son of Amrik Singh was Sukhmandar Singh son of Amrik Singh and in addition to naming Surinder Singh and

Sukhmander Singh, he had named five more persons including the present petitioners. The said Padam Nabhin is not an eye witness to the said incident and no CCTV recording is a part of the challan. Further, the only eye witness/complainant Vijay Kumar, who got registered the present FIR, had stated that there were 3-4 persons, who had committed the alleged offence, whereas, Padam Nabhin named 07 persons in his supplementary statement. The question as to whether seven persons can even fit in one car, is a matter of debate. The co-accused of the petitioners, namely, Rajinder, has already been granted the concession of regular bail, vide order dated 14.02.2022 passed in CRM-M-51547-2021 and the case of the present petitioners is on similar footing as that of said co-accused Rajinder and the present petitioners are not involved in any other case. The petitioners have been in custody since 11.10.2021 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 and thus, the present petition for grant of regular bail deserves to be allowed.

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

It is however made clear that in case the petitioners influences or threatens any witness, then it would be open to the State to move an application for cancellation of bail of the petitioners.

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.

Pending miscellaneous application(s), if any, stand disposed of in view of the abovesaid order.

July 06, 2022  
naresh.k

( VIKAS BAHL )  
JUDGE

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| Whether reasoned/speaking? | Yes |
| Whether reportable?        | No  |