

CRM-M-860-2023 (O & M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-860-2023 (O & M)
Date of Decision: 14.07.2023

Pawan

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vinod Ghai, Sr. Advocate,
with Mr. Arnav Ghai, Advocate and
Mr. Saurav Dogra, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J.

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.94 dated 25.03.2021 under Section 15 of the Petroleum and Minerals Pipelines (Acquisition of Rights of User in L.D.) Act, 1962, Sections 3 & 4 of the Explosive Substances Act, 1908 and Sections 379/34 IPC and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984, registered at Police Station Bawal, Rewari.

2. The present FIR came to be registered on the basis of a complaint filed by Mahender, Supervisor at Hindustan Petroleum

CRM-M-860-2023 (O & M)

::2::

Corporation Limited (HPCL). He alleged that recently they had got an order of security of a pipeline and on No.968300 an oil leak alarm was received, upon which the guard of their security agency and other higher officers had checked the line. The information was also given to the police on 25.03.2021 and police officials inspected the spot. It was found that two valves of two inches and one valve of half inch had been fitted on the pipeline. The name of the owner of the said field was stated to be Hawa Singh.

Pursuant to the registration of the FIR, during the course of investigation, one accused Ankit, who had been arrested in connection with FIR No.276 of 2021 registered at Police Station Sector 29, Panipat admitted his involvement in FIR No.112 of 2021 at Police Station Bawal. As the crime complained of in the said FIR and the present one being of similar nature, he was joined in the investigation of the present case as well. During the course of interrogation, he disclosed the names of his other accomplices and got recovered a sum of Rs.14,200/- being his share.

Co-accused Sandeep was arrested on 18.08.2021 and consequent upon the completion of the investigation against Sandeep and Ankit, the report under Section 173(2) Cr.P.C. was presented against them.

On 29.01.2022, co-accused Harish alias Mistri, Ravinder alias Babloo, Vijay alias Ajay, Binder, Suraj, Manish alias Sund were

CRM-M-860-2023 (O & M)

::3::

arrested in the present case. They suffered their respective disclosure statements and the name of the petitioner surfaced in the said statements. It was found that the petitioner had been purchasing stolen oil from the said accused. Harish alias Mistri got recovered the tools used in the commission of the crime alongwith Vehicle No.HR-26-BG-9065 and a sum of Rs.25,200/- during the course of investigation of FIR No.112 of 2021. Co-accused Binder got recovered a sum of Rs.22,000/- and Ritz car bearing No.DL-3CBJ-3980 during the course of investigation of FIR No.112 of 2021. Likewise, other co-accused also got recovered money and the vehicles used by them.

Co-accused Ravinder alias Chirkut got recovered a tanker full of oil from the godown of the present petitioner.

On 03.08.2022, co-accused Sunny was joined in the investigation and he disclosed that there was a gang involved in the commission of theft of oil from the pipelines who were working under the stewardship of the prime accused-Sunil Banda. The said gang had been operating in the areas of Districts Rewari, Sonapat, Rohtak and Jhajjar alongwith certain other districts and had been committing the theft of oil. It transpired that the petitioner had been repeatedly purchasing stolen oil from the gang and had been supplying it from his godown in his vehicles. He was found to be involved in several other cases as well.

CRM-M-860-2023 (O & M)

::4::

The supplementary challan was submitted against the co-accused, namely, Harish, Ravinder, Vijay, Binder, Suraj, Manish and Sunny on 28.04.2022.

On 28.07.2022, co-accused Dinesh Rathi and Narender alias Anna were arrested on receipt of appropriate incriminating evidence against them. A country-made weapon alongwith two cartridges were recovered from Dinesh aforesaid alongwith a welding machine and a sum of Rs.1400/- whereas Narender got recovered a sum of Rs.750/-.

On 23.08.2022, the petitioner alongwith co-accused Desh Raj and Nakul Bedi were arrested in the present case. They suffered their respective statements stating their involvement in the present case. In pursuance of the said disclosure statements, co-accused Nakul Bedi got recovered a sum of Rs.60,000/- being the proceeds of the stolen oil and Desh Raj got recovered a sum of Rs.12,000/-. The petitioner got recovered a sum of Rs.15,000/- and consequent upon the completion of the investigation qua them, a supplementary final report was submitted to the Court on 21.11.2022.

Co-accused Sunil alias Banda was arrested on 07.11.2022 and consequent upon completion of the investigation qua him, a supplementary final report was submitted in the Court.

Thereafter, a co-accused Amit Rana was arrested on 11.04.2023.

CRM-M-860-2023 (O & M)

::5::

3. The learned Senior counsel for the petitioner contends that the petitioner has not been named in the FIR but has been arrayed as an accused later on as per the disclosure statements of the arrested accused. The said disclosure statements have no evidentiary value in the eyes of law. As the petitioner was in custody since 23.08.2022 and none of the 30 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in two of the other cases registered against him vide FIR No.112 dated 10.04.2021 under Sections 379/413/34/117/411/420/467/468/471/120-B/201 IPC, Sections 15/16 and 15(IV) of the Petroleum and Mineral Pipe Line Act, 2021, 3/4 of the Explosive Substances Act, Sections 3/4 Prevention of Damage to the Public Property Act, 1984 at Police Station Bawal and FIR No.264 dated 26.12.2021 under Sections 379, 413, 34, 117, 411, 420, 467, 468, 471, 120-B and 201 IPC, Sections 15/16 and 15(IV) of the Petroleum and Minerals Pipelines Act, 2021, Sections 3 and 4 of the Explosive Substances Act, 1908 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984 at Police Station Rampura, he had been granted the concession of bail by this Court vide orders dated 02.05.2023 passed in CRM-M-864-2023 and order dated 12.05.2023 in CRM-M-1059-2023 respectively.

4. The learned counsel for the State, on the other hand, contends that the petitioner is the person who used to purchase the stolen oil at a discounted rate and it cannot be believed that he was unaware of

CRM-M-860-2023 (O & M)

::6::

the fact that the said oil had been stolen. He contends that the petitioner was an accused in 05 other cases registered vide FIRs No.156 dated 07.09.2020 under Sections 323/364/34 IPC at Police Station Sector 37, Gurugram, FIR No.93 dated 26.03.2021 under Sections 379/286/268/285/34 IPC and 3/4 of the Explosive Substances Act, 1908 and Section 3 of the Motor Sprit and High Speed Diesel Order 1908, 15, 16 PMP Act, 1962 at Police Station Badli, FIR No.264 dated 26.12.2021 under Sections 379, 413, 34, 117, 411, 420, 467, 468, 471, 120-B and 201 IPC, Sections 15/16 and 15(IV) of the Petroleum and Minerals Pipelines Act, 2021, Sections 3 and 4 of the Explosive Substances Act, 1908 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984 at Police Station Rampura, FIR No.75 dated 29.07.2021 under Sections 379/34 IPC, Section 15 PMP Act, 1962 and Sections 3/4 Prevention of Damage to the Public Property Act, 1984 at Police Station Rohrai, District Rewari and FIR No. 112 dated 10.04.2021 under Sections 379/413/34/117/411/420/467/468/471/120-B/201 IPC, Sections 15/16 and 15(IV) of the Petroleum and Mineral Pipe Line Act, 2021, 3/4 of the Explosive Substances Act, Sections 3/4 Prevention of Damage to the Public Property Act, 1984 at Police Station Bawal, and therefore, the criminal antecedents of the petitioner did not entitle him to the grant of bail. He, however, concedes the fact that the petitioner is in custody since 23.08.2022, none of the 30 prosecution witnesses have been examined so far and in two cases of identical nature arising out of FIR

CRM-M-860-2023 (O & M)

::7::

No.112 dated 10.04.2021 and FIR No.264 dated 26.12.2021, the petitioner has already been granted the concession of bail by this Court vide orders dated 02.05.2023 and 12.05.2023 respectively.

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

6. Admittedly, the petitioner is named in the disclosure statements of his co-accused. Whether the other evidence available against the petitioner is sufficient to affix liability upon him would be a matter of adjudication during the course of the Trial. At this stage, the petitioner is in custody since 23.08.2022, investigation stands completed and none of the 30 prosecution witnesses have been examined so far. In two similar cases i.e. FIR Nos.112 dated 10.04.2021 and FIR No.264 dated 26.12.2021, the petitioner has been granted the similar relief by this Court vide order dated 02.05.2023 passed in CRM-M-864-2023 and order dated 12.05.2023 passed in CRM-M-1059-2023 respectively. Therefore, his further incarceration in the present case is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Pawan is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial

CRM-M-860-2023 (O & M)

::8::

and furnish an affidavit each time that he is not involved in any case/crime other than the case(s) mentioned in this order

9. In addition, the petitioner (or through someone else on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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

July 14, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No