

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 21.02.2023

(1) CRM-M-5066-2023 (O & M)

Kulwinder Singh @ Khinder Petitioner

V/s

State of Punjab ...Respondent

(2) CRM-M-2978-2023 (O & M)

Manga Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Puneet Kumar Bansal, Advocate,
for the petitioner (in CRM-M-5066-2023).

Mr. Rahul Arora, Advocate,
for the petitioner (in CRM-M-2978-2023).

Mr. Shubham Kaushik, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two petitions i.e. CRM-M-5066-2023 and CRM-M-2978-2023 as the aforesaid petitions arise out of the same FIR.

2. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail to the petitioners in case FIR No.251 dated 19.11.2022 under Sections 420, 465, 467, 468, 471 IPC registered at Police Station City Moga, District Moga.

3. The brief facts of the case are that on 19.11.2022, a police party headed by ASI Sukhwinder Singh was present at Main Joginder Singh

Chowk, Moga in connection with patrolling. A secret informer came and informed the police party that Kulwinder Singh @ Khinder (petitioner in CRM-M-5066-2023) after loading wood on Canter Tata 407, No.PB-04C-9591 had reached the Wood Market, Moga and a fake number plate was affixed on the Canter.

Based on the said information, the present FIR came to be registered. The police party conducted a raid at the place disclosed by the informer and the aforesaid vehicle was found parked there. The person sitting inside the vehicle attempted to flee away but was apprehended. He disclosed his named as Kulwinder Singh (petitioner in CRM-M-5066-2023). The search of the vehicle led to the recovery of one fake RC No.PB04C-9591 in which chassis number 357176GSZ821796 and Engine No.497SPTC36FSZ870107 date of issue 01.01.1993 in the name of Darshan Singh son of Sahab Singh R/o Deep Singh Wala District Faridkot, was mentioned, one forged work permit in the name of Darshan Singh son of Sahab Singh and a fake pollution certificate and insurance policy came to be effected. The said vehicle alongwith fake documents were taken into police custody.

During investigation, accused-Kulwinder Singh disclosed that he had got prepared the said fake RC and work permit from Manga (petitioner in CRM-M-2978-2023) and Harish Puri. On the basis of the said disclosure statement, Manga (petitioner in CRM-M-2978-2023) and Harish Puri were nominated as accused.

4. Pursuant to the arrest of the petitioner-Manga on 21.11.2022, Harish Puri was also arrested and they disclosed that they had got prepared the said fake documents from the shop of one Love, resident of

On the basis of the said disclosure statement, Love was nominated as an accused on 23.11.2022.

5. The learned counsel for the petitioner-Kulwinder Singh (in CRM-M-5066-2023) contends that he has been falsely implicated in the present case. In fact, the vehicle was transferred in his name at the instance of Harish Puri and Manga (petitioner in CRM-M-2978-2023) for which he (Kulwinder Singh) had paid them Rs.25,000/- He argued that the work was to be done in a genuine manner, and therefore, he himself has been cheated by the said accused and being the victim, he was entitled to the grant of concession of bail. Even otherwise, he was in custody since 19.11.2022, none of the 13 prosecution witnesses had been examined so far and he was a first-time offender.

6. The learned counsel for the petitioner-Manga (in CRM-M-2978-2023), on the other hand, contends that he has been named in the disclosure statement of his co-accused. In fact, he is a Mahant of a religious place and has no connection with the co-accused Kulwinder Singh @ Khinder. Pursuant to his arrest, no recovery has been effected from him. Since he was in custody since 21.11.2022, he was entitled to the grant of concession of bail as he was a first-time offender.

7. The learned counsel for the State, on the other hand, contends that both the accused are part of a racket wherein vehicles are registered on the basis of fake documents. Therefore, none of the petitioners were entitled to the grant of bail. He, however, concedes that the petitioners are in custody since November, 2022, none of the 13 prosecution witnesses have been examined so far and they were first-time offenders.

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

9. The veracity of the allegations against the petitioners shall be established during the course of the Trial. The case is triable by the Court of a Magistrate. This Court in the case of “*Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022)*”, has stated that broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule”. In the present case, since the petitioners are in custody since November, 2022, none of the 13 prosecution witnesses have been examined so far and they are first-time offenders, their further incarceration is not required.

10. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioners, namely, Kulwinder Singh @ Khinder and Manga are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

11. In addition, the petitioners (or someone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- each 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 petitioners from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

February 21, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No