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(210)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 04.05.2023

HC SANDEEP SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.K. Phoolka, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.165 dated 27.11.2022 (Annexure P-1) registered under Section 409, 380, 120-B of the IPC at Police Station Dyalpura, District Bathinda.

2. The brief facts of the case are that on 06.06.2022, the Deputy Superintendent of Police (Investigation) Bathinda submitted a report to the Senior Superintendent of Police, Bathinda, wherein it was averred that on 27.05.2022, a police party had nabbed an accused Ritik Khanna along with a .32 bore pistol, three live cartridges, 1150 tablets of Tramadol, 15 grams heroin and Rs.32000/- along with a Swift Dzire car bearing No.HR 54A 8160. The said accused Ritik Khanna had disclosed that he had been doing illegal activities for an accused Sahil Kumar son of Rajesh Kumar and all the recovered items belonged to Sahil Kumar. On the basis of the recovery, FIR

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No.71 dated 27.05.2022 under Sections 21B, 22C, 29 of the NDPS Act, Sections 25/27 of Arms Act, Sections 279, 427 IPC at Police Station City Rampura came to be registered against Ritik Khana and Sahil Kumar at Police Station City Rampura, Bathinda. During the course of investigation, it surfaced that the said recovered .32 bore pistol was registered in the name of Pritam Singh son of Sukhwinder Singh resident of village Bhakta Bhai Ka who had been involved in case FIR No.35 dated 21.03.2020 under Sections 307, 506 IPC and Sections 25/54/69 Arms Act at Police Station Dayalpura, District Bathinda. The MHC of Police Station Dayalpura had also confirmed that the said pistol had been taken into police possession in FIR No.35 dated 03.06.2020 and had been deposited in the Malkhana of the Police Station as case property.

On the basis of the report of the Deputy Superintendent of Police (Investigation), Bathinda, the Senior Superintendent of Police, Bathinda constituted a Fact Finding Committee to ascertain the true facts and submit its report. On the conclusion of the aforementioned inquiry report, it was revealed that Pritam Singh had been arrested in FIR No.35 dated 21.03.2020 under Sections 307, 506 IPC and Sections 25, 54, 59 of Arms Act at Police Station Dayalpura. A .32 bore pistol bearing No.RP217609 GSF in 2016 had been taken into police possession in the said FIR and the report of the Forensic Science Laboratory, Mohali was obtained regarding the said pistol. Thereafter, the FSL report along with the pistol had been handed over to ASI Bogha Singh, Care Taker of the store at Police Station Dayalpura. However, the said .32 bore pistol was subsequently recovered from accused Ritik

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Khanna in FIR No.71 dated 23.05.2022. During the course of interrogation, Ritik Khanna had disclosed the name of Sahil Kumar and stated that all the case property recovered from him including the .32 bore pistol belonged to Sahil Kumar. During the course of interrogation of the accused Sahil Kumar, he disclosed before the Investigating Officer that he had purchased the .32 bore pistol from accused/petitioner HC Sandeep Singh (petitioner) through co-accused Surinder Singh Shinda, Sukhwinder Singh @ Sona and Khushdeep Singh @ Khushi.

The Committee got conducted the examination of record Register No.19 for case properties and Register No.18 for receipts of arms through the then SHO P.S. Dayalpura and HC Upjinder Singh. The case properties of the store were compared with the above-said two registers and detailed regarding the missing of case properties were submitted.

The Fact Finding Committee had recorded the statements of a number of police officials and found that the petitioner-HC Sandeep Singh had been posted as MHC at Police Station Dayalpura, Bathinda during the period 21.09.2021 to 05.04.2022 and during the posting of the petitioner, the revolver 32 bore No.PG29415 belonging to Gurjit Singh son of Jagdish Singh was found missing. In this connection an application had been moved by Manjinder Singh son of Gurjit Singh but no satisfactory reply had been given by the petitioner. It also surfaced during the inquiry that recovered drug money of Rs.7.20 lakhs in case FIR No.73 dated 19.06.2021 at Police Station Dayalpura, Bathinda was missing which had been entrusted to the petitioner by HC Tarsem Singh.

After approval from the Senior Superintendent of Police, Bathinda, FIR No.165 dated 27.11.2022 under Section 409 IPC at Police Station Dayalpura, Bathinda was registered against the petitioner (present FIR). Investigation into the case was carried out. It was found that one 38 bore revolver, one country-made revolver, one country-made 315 bore pistol were recovered from Satnam Singh @ Satti and Kulwinder Singh @ Nikka in FIR No.10 dated 30.11.2022 under Sections 25/54/59 of Arms Act at Police Station State Special Operation Cell, Fazilka. During interrogation, the accused Satnam Singh alias Satti disclosed that he had purchased all the above-said weapons from the petitioner in the month of April, 2022 for a consideration of Rs.23000/-. Kulwinder Singh @ Nikka made a similar statement. On the basis of the disclosure statements, the petitioner was nominated as an accused in FIR No.10 dated 30.11.2022 through Rapat No.19 dated 02.12.2022. Similarly, the accused/petitioner, Sukhwinder Singh @ Sona, Surinder Singh @ Shinda Baba and Khushdeep Singh @ Khushi were nominated as accused in FIR No.71 dated 27.05.2022 Police Station City Rampura, through DDR No.36 dated 07.01.2023.

Thereafter, Section 380 IPC was added through DDR No.23 dated 10.01.2023 and accused Dharampal @ Ganja, Iqbal Singh @ Ravi, Sukhwinder Singh @ Sona, Surinder Singh @ Shinda Baba and Khushdeep Singh @ Khushi, Ritik Khanna and Sahil Kumar were nominated in the present case. Through DDR No.16 dated 15.01.2023, Constable Sahib Singh was nominated as an accused and through DDR No.17 dated 16.01.2023 Section 120-B IPC was added in the present case.

The petitioner was in judicial custody in connection with FIR No.71 dated 27.05.2022 and on 13.01.2023, the accused was produced in the Court on production warrants and arrested in the present case. On the basis of a disclosure statement, one 32 bore revolver was recovered on 16.01.2023. Through DDR No.27 dated 15.03.2023, Section 25, 54, 59 of Arms Act were added against the petitioner, Iqbal Singh @ Ravi and Dharampal @ Ganja. Through DDR No.27 dated 27.03.2023, Section 13(1) (A) of P.C. Act, 1988 were added against the petitioner.

The report under Section 173 Cr.P.C. stands presented against the petitioner, Iqbal Singh @ Ravi, Satnam Singh @ Satti, Kulwinder Singh @ Nikka, Sahib Singh and Dharampal Singh.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. In fact, the weapons and other articles were missing prior to the joining of the petitioner as MHC. He had made repeated requests and sent letters to the SHO, P.S. Dayalpura regarding the missing of these articles including cash and weapons but no action had been taken by senior officers. The petitioner has been implicated as he was a whistle-blower. Even otherwise, the petitioner had been granted the concession of regular bail in FIR No.71 dated 28.03.2022 vide order dated 28.03.2023 passed in CRM-M-8595-2023 and the concession of anticipatory bail in FIR No.10 dated 27.03.2023 vide order dated 19.12.2022 passed in CRM-M-49342-2022. Therefore, as he had been in custody in the present case since 13.01.2023, the report under Section 173 Cr.P.C. already stood submitted and 61 prosecution witnesses were to be examined, the trial of the

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present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the grant of bail.

4. A short reply dated 03.05.2023 by way of an affidavit of Aaswant Singh, PPS, Deputy Superintendent of Police, Sub Division, Phul, Distt. Bathinda has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that grave allegations have been levelled against the petitioner. Being a member of a disciplined police force, the actions of the petitioner cannot be condoned in any manner. Therefore, he was not entitled to the concession bail. He, however, does not dispute the fact that in the other cases registered against the petitioner, he has been granted the concession of either regular bail or anticipatory bail as also the fact that none of the 61 prosecution witnesses had been examined so far and the petitioner had been in custody since 13.01.2023.

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

6. The veracity of the prosecution case against the petitioner shall be established during the course of Trial. The petitioner is in custody since 13.01.2023. As many as 61 prosecution witnesses are to be examined and none have been examined till date. Therefore, the trial of the present case is not likely to be concluded anytime soon. In the two other cases registered against the petitioner, he has either been granted the concession of regular bail or anticipatory bail. Therefore, his further incarceration in the present case is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-HC Sandeep Singh son of Roop Singh

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is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone 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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

04.05.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No