

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-14259-2023 (O & M)

Date of decision: 06.11.2023

Surjit Singh @ Baba

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. S.K. Choudhary, Advocate,
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

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.106 dated 19.09.2019 under Sections 457, 380, 427, 511 IPC registered at Police Station Division No.2, Pathankot.

2. The brief facts of the case are that while the police party was on the patrolling duty, a black scooter bearing registration No.PB-35-P-2965 was seen parked outside the Punjab National Bank, Dhaka Road, Pathankot. The door of the ATM was found open and a person was seen inside the ATM of the Bank. He was breaking the ATM machine with an iron rod and a haircut person was seen standing outside the ATM. He fled away from the spot after seeing the police party. The person arrested at the spot disclosed his name as Sukhwinder Singh @ Mintu and stated that the name of the person who had fled away was Surjit Singh @ Baba (petitioner).

3. The petitioner was granted the concession of interim anticipatory bail and joined investigation pursuant to which the interim

anticipatory bail was made absolute on 31.08.2021 (Annexure P-2). While

co-accused Sukhwinder Singh @ Mintu appeared before the Court of the Judicial Magistrate Ist Class, Pathankot, the petitioner failed to appear on a number of occasions and vide order dated 21.01.2023 (Annexure P-3), he was declared a proclaimed person.

4. Thereafter, the petitioner was arrested on 28.02.2023 and sought the concession of regular bail from this Court.

On 07.07.2023, the following order was passed:-

“Contends that petitioner is in custody since 28.02.2023 and charges have already been framed by learned trial Court on 24.04.2023.

Also contends that there is no other criminal case pending against the petitioner.

Learned State Counsel will verify the above factual position.

Posted for 11.08.2023.

In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned”.

5. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. He had been declared a proclaimed person in violation of the provisions of the Cr.P.C. As he was in custody since 28.02.2023 and had undergone approximately 04 months' incarceration pursuant to which he had been granted the concession of interim bail by this Court which he had not misused, he was entitled to the concession of regular bail, moreso as till date, none of the 32 prosecution witnesses had been examined and in the three other cases registered against him vide FIR No.141 dated 04.12.2019 under Sections 420, 120-B IPC,

under Sections 406, 420 IPC, Police Station Sujanpur, Pathankot and FIR No. 0209 dated 17.12.2020 under Section 420 IPC, Police Station Sadar, District Pathankot, he had been granted the concession of anticipatory bail vide orders dated 12.02.2020 and 06.10.2022 passed by the Additional Sessions Judge, Pathankot and order date 14.12.2021 passed by this Court.

6. The learned counsel for the State, on the other hand, has filed a reply dated 11/16.05.2023. She contends that, though, the petitioner was granted the concession of anticipatory bail, he had absconded from the trial and was subsequently declared a proclaimed person. He was a habitual offender with three cases bearing FIR No.141 dated 04.12.2019, FIR No.234 dated 18.11.2021 and FIR No.0209 dated 17.12.2020 registered against him. She, however, concedes that the petitioner was arrested on 28.02.2023, after which he was released on interim bail by this Court which concession he had not misused. She also concedes that none of the 32 prosecution witnesses had been examined so far as also the fact that the petitioner had been granted the concession of anticipatory bail in the aforesaid three cases registered against him.

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

8. The veracity of the prosecution case against the petitioner shall be adjudicated upon by the Trial Court during the course of trial. Admittedly, the petitioner has undergone 04 months' incarceration and pursuant to the grant of interim bail, he has not misused the same. In the other three cases registered against him, the petitioner has been granted the concession of anticipatory bail either by the Court of the Additional Sessions Judge Pathankot or by this Court. Therefore, the further incarceration of the petitioner in the instant case is not required.

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9. In view of the above, the present petition is allowed and the interim order dated 07.07.2023 is made absolute subject to his (petitioner-Surjit Singh @ Baba) furnishing adequate bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. In addition, the petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case other than the case(s) referred to hereinabove.

11. The petitioner 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

November 06, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No