

CRM-M-18300-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-18300-2023 (O & M)

Date of decision: 19.04.2023

Raj Kumar and ors.

..... Petitioners

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Bipan Ghai, Sr. Advocate,
with Mr. Nikhil Ghai, Advocate
and Mr. Paras Talwar, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, 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 FIR No.2 dated 27.11.2020 under Sections 420, 467, 468, 471 and 120-B IPC registered at Police Station State Crime, District SAS Nagar, Mohali.

2. The brief facts of the case are that a complaint had been received in the office of the Bureau of Investigation, Punjab, to the effect that Kuljinder Singh, Baljinder Singh and others had filed a CWP-13159-2020 (O & M) titled as 'Kuljinder Singh and others Vs. State of Punjab and others' and CWP No.8552-2020 (O & M) titled as 'Baljinder Singh and

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High Court in which they had disclosed about the irregularities done by the PSPCL at the time of recruitment of Assistant Linemen. The High Court had passed an order dated 27.10.2022 to the effect that since there were allegations of fake experience certificates, etc. being accepted by PSPCL, the DIG/IG, Crime was to file an affidavit narrating the investigation conducted and also to examine the role of the officials/officers of PSPCL in accepting the alleged fake experience certificates. On the basis of the order of the High Court, an investigation begun and the writ petitioners-Kuljinder Singh and Baljinder Singh were joined in the investigation. Baljinder Singh got recorded a statement to the effect that in the month of October, 2019, PSPCL had advertised posts for the recruitment of the Assistant Linemen and he had applied for the same. He had been called for counselling and had produced all his educational certificates. As per the advertisement, 10 experience certificates were required and on this count, many candidates had got recruited by furnishing fake experience certificates. There were irregularities in this recruitment due to which he (Baljinder Singh) alongwith 06 other candidates had filed CWP-8552 of 2020 before the High Court. Apart from this, 22 more candidates had filed CWP-13159-2020 and in these petitions, the PSPCL had filed their responses. He (Baljinder Singh) further stated that on 06.09.2020, they had filed an application in the High Court in which they had mentioned Baljinder Singh son of Jarnail Singh, Bahadur Singh Jabandha son of Gurdev Singh, Kamaldeep Singh son of Kartar Singh, Jaswinder Singh son of Darshan Singh, Pargat Singh son of Indraj Singh, Gurpreet Singh son of Darshan Singh, Palwinder Singh son of

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Malkit Singh and Malwinder Singh son of Sukhdarshan Singh having joined by producing fake experience certificates.

The PSPCL had also conducted an investigation of 04 candidates at their own level and it was found that Kamaldeep Singh and Malwinder Singh had produced fake certificates. Legal action was sought against the accused.

Thereafter, the writ petitioner Kuljinder Singh had joined investigation and got recorded his statement that in 2019, he had applied for the post of Assistant Lineman, had been called for counselling and had produced all the educational certificates. However, he had not been selected as he was not having any experience certificate. Thereafter, he had come to know that some candidates had produced fake certificates on account of which he alongwith 22 other candidates had filed writ petitions bearing CWP-13159 of 2020 and CWP-8552-2020.

During investigation, Vipin Kumar, Assistant Manager of PSPCL also joined investigation alongwith the record and got recorded his statement that for 3500 vacancies, 4756 candidates had applied online and the documents were checked by 11 committees and appointment letters were issued to 2393 candidates after consideration by a selection panel in which about 1684 candidates had obtained experience certificates. Thereafter, 29 writ petitioners had filed petitions before the High Court and on the basis of the orders passed in the said petitions, the experience certificates of Assistant Linemen were verified from the firms and directors who had issued the

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Kartar Singh and Malwinder Singh son of Sukhdarshan Singh had furnished certificates which were forged.

On the basis of the above statements, the investigation of the present case was conducted and the instant FIR came to be registered against the accused.

3. The learned counsel for the petitioners contends that the allegation against the petitioners are that they had obtained employment as Assistant Linemen in the PSPCL by providing fake and fictitious experience certificates. It is his contention that the petitioners are in custody since 23.01.2023. The report under Section 173 Cr.P.C. stands presented on 23.02.2023. None of the 38 prosecution witnesses had been examined so far. Since the petitioners were first-time offenders, they were entitled to the grant of bail, moreso, when the case was triable by the Court of a Magistrate and as many as 15 co-accused had been granted bail vide orders Annexures P-8, P-9 and P-10.

4. The learned counsel for the State, on the other hand, contends that the nature of the allegations did not entitle the petitioners to the grant of bail. They had furnished fake and forged experience certificates to get employment. He, however, fairly concedes that the petitioners are first-time offenders, in custody since 23.01.2023, the investigation already stands completed and 15 co-accused have been granted the concession of bail.

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

6. This Court in the case of ***“Maninder Sharma versus State Tax***

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decided on 31.08.2022), has held 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”.

7. The veracity of the prosecution case against the petitioners shall be adjudicated upon during the course of the Trial. Admittedly, the petitioners are in custody since 23.01.2023. The investigation stands completed and the report under Section 173 Cr.P.C. already stands filed. None of the 38 prosecution witnesses have been examined so far. Therefore, the Trial of the case is not likely to be concluded anytime soon. Even otherwise, the case is Triable by the Court of a Magistrate. Therefore, the further incarceration of the petitioners is not required, moreso, when there is no apprehension of the petitioners tampering with the evidence or absconding from the Trial.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioners, namely, Raj Kumar, Rajesh Kumar, Baljit Singh, Sanjeev Sharma and Harjinder Singh, are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioners 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 they are not involved in any case other than the present one.

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10 In addition, the petitioners (or through someone on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/-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.

April 19, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No