

CRM-M-20165-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20165-2023 (O & M)

Date of Decision: 18.05.2023

Nakul Bedi

... 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.590 dated 11.12.2020 under Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984, Section 15 of the Petroleum and Minerals Pipelines (Acquisition of Rights of User in Land) Act, 1962, Sections 3, 4 of the Explosive Substances Act, 1908 and Sections 285, 34, 379, 427, 411, 413 and 120-B IPC registered at Police Station Kharkhoda Sonipat (Annexure P-1).

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2. The present FIR came into existence on the basis of a complaint made by Abhishek Kasodhan son of Yamuna Prashad Gupta, Assistant Manager, Indian Oil Corporation Limited, Delhi, stating therein that pipelines of Indian OIL Corporation Limited from Mathura to Jalandhar were passing through village Mandora, District Sonipat and a theft in the pipeline No.47900/KM had been committed after damaging it. On 04.12.2020 at about 11.00 p.m. in the Delhi-Panipat Section of the pipeline, oil pressure had dropped. For ascertaining the exact place of theft, patrolling was conducted and on 09.12.2020, on suspicion, the place of occurrence was dug and it was found that a 2" valve had been inserted in the oil pipeline with an intention to commit a theft. On 10.12.2020, during digging of earth, there was smell of oil in the soil and some sacks filled with soil were lying on the spot. On an enquiry, the owner of said fields was found to be Bablu, resident of village Mandora, District Sonipat. Apparently, the theft had been committed after putting valve by some miscreants thereby committing the offence in question.

During investigation, it was revealed that an FIR No.112 dated 10.04.2021 under Sections 379/285/427/117/411/120-B/34 IPC, 3/4 Explosive Substance Act, 3/4 Prevention of Damage to the Public Property Act and Sections 15/16 of Petroleum and Pipe Line Act, 1962 at Police Station Bawal, District Rewari, had been registered and accused Harish @ Mistri, Suraj, Ravinder @ Chirkut, Binder, Manish @ Sund, Vijay @ Ajay @ Bhola had been arrested by CIA Staff, Dharu Hera,

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District Rewari. In the said case, the aforementioned persons suffered their disclosure statements admitting to have committed the offence pertaining to the present case as well. Thereafter, on production warrants, Harish @ Mistri, Suraj, Ravinder @ Chirkut, Binder, Manish @ Sund and Vijay @ Ajay @ Bhola were arrested in the present case. On interrogation, they suffered their disclosure statements admitting their guilt. Harish @ Mistri disclosed that Sunil @ Banda and Dinesh Rathee had asked him to commit the theft of oil. Thereafter, Sunil @ Banda and Dinesh Rathee had introduced him (accused-Harish) with other members of the gang, namely, Neeraj @ Bachhi, Brijesh @ Julfi, Ashish, Suraj, Sandeep @ Moni, Ravinder @ Bablu @ Chirkut, Binder, Mohit @ Mota, Vijay @ Ajay @ Bhola, Manish @ Sund and Suraj. Thereafter, they all had hatched a conspiracy to commit theft of oil. During the intervening night of 04.12.2020, they had gone to the fields of village Mandora with the equipments of welding and digging equipments etc. with a tanker (canter) bearing registration No.HR-55N-3642 and had filled up oil in the said tanker (canter) and had taken away the same. Ravinder @ Chirkut had been driving the said vehicle. It was taken to a godown at Nar Singhpora, Sector 36, near Iron Pul, Gurugram as per the instructions of Sunil @ Banda and Dinesh Rathee. The said persons had sold away the stolen oil and the name of the purchaser was only known to them (Sunil @ Banda and Dinesh Rathee). He (Harish) had received a sum of Rs.20,000/-, out of which he offered to get Rs.3500/- recovered.

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Similarly, Ravinder @ Chirkut got recorded his disclosure statement to the similar effect. In pursuance to their disclosure statements, accused Harish got recovered Rs. 3500/-, Suraj, Rs. 2800/-, Manish Rs.2200/-, Vijay Rs.2,000/-, Ravinder @ Chirkut Rs.2,000/- and Binder got recovered Rs.3,000/-. They also identified their tanker which had already been recovered in FIR No.603 of 2020, Police Station Kharkhoda, Sonipat.

During investigation, the registered owner of the aforesaid tanker Narender was joined in the investigation. He stated that he had sold the said tanker to one Sunil Sharma on 22.11.2020 for a sum of Rs.3,20,000/-, pursuant to which, a sale agreement dated 24.11.2020 was executed. Thereafter, Sunil Sharma was joined in the investigation who admitted the fact that he had purchased the tanker from Narender for a sum of Rs.3,20,000/-. He further stated that he had given the said tanker on rent to Dinesh Rathee and Harish on the asking/assurance of Hansraj and Sikander vide an agreement dated 03.12.2020. The rent of the said vehicle was settled at Rs.1,00,000/- per month. Therefore, the said tanker was not in his (Sunil Sharma's) possession but was in the possession of Dinesh Rathee and his friend Harish.

During investigation, a co-accused Sandeep @ Moni was arrested in FIR No.603 dated 20.12.2020 under Sections 379, 285, 427, 34 IPC, 15/16 of Petroleum Act, 3/4 Explosive Substance Act, 3/4 PDP Act, Police Station Kharkhoda, Sonipat. Thereafter, he was joined in the

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investigation in the present case. He disclosed while admitting his guilt that Sunil @ Banda and Dinesh Rathee had met him and had stated that they had learnt the method of making hole in the oil pipeline from Anand @ Nepali and had committed theft of oil. Sunil @ Banda and Dinesh Rathee had introduced him (Sandeep @ Moni) with the other members of the gang. All of whom hatched a conspiracy to commit the theft of oil at village Mandora, District Sonipat. In pursuant to the said conspiracy, they had committed the offence in question on the night intervening 04.12.2020. The canter which had been filled the oil at the spot had been driven away by Ravinder @ Chirkut who had taken away the same to Nar Singhpora, Sector 36, near Iron Pul, Gurugram as per the instructions of Sunil Banda and Dinesh Rathee. The stolen oil had been sold and the identity of the buyer was only known to Sunil @ Banda and Dinesh Rathee. He (Sandeep @ Moni) had received a sum of Rs.20,000/-. He also identified the tanker which had been recovered in FIR No.603 of 2020, Police Station Kharkhoda, Sonipat.

Based on the aforementioned disclosure statement of Sandeep @ Moni, accused-Anand @ Nepali was arrested in the present case on 08.03.2022 for the offence punishable under Section 120-B IPC. He suffered his disclosure statement to the effect that he had come in contact with Dinesh Rathee who introduced him to Sunil @ Banda and they had committed theft of oil from the oil pipeline in Bahadurgarh in the year 2016. After committing 03/04 such offences, they had been

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apprehended by the police. In the year, 2017 Dinesh Rathee, Sunil @ Banda and one Deepak @ Lota had come to his village and had asked him to them the procedure for make a hole in the pipeline for which they had offered him Rs.20,000/-. He disclosed to them the method of making a hole in the pipeline. Thereafter, in December 2020, Dinesh Rathee, Sunil @ Banda, etc. had committed the theft in the area of village Mandora and one incident of a similar kind in the village Halalpur in the year 2021. He had been paid a sum of Rs.10,000/- in each incident.

The report under Section 173 Cr.P.C. was submitted in the Court against Harish @ Mistri, Suraj, Ravinder @ Chirkut, Binder, Manish @ Sund, Vijay @ Ajay, Sandeep @ Moni and Anand @ Nepali on 24.05.2022.

Thereafter on 08.07.2022, Dinesh Rathee was arrested in the present case. He suffered his disclosure statement disclosing the identical facts as disclosed above. He further disclosed that after committing the theft, Ravinder @ Chirkut had taken the said canter/truck to a godown at Narsinghpura, Sector 36/37, Gurugram on his instructions and that of Sunil @ Banda and the stolen oil had been sold to Nakul Bedi (petitioner) and his companions for a sum of Rs.8,00,000/-.

On 19.07.2022, Sandeep @ Guddu was arrested in the present case, admitted his guilt and got recovered Rs.5,000/-. On 15.09.2022, accused Brijesh @ Julfi was arrested, suffered his disclosure statement and while admitting his guilt, got recovered Rs.3,000/-.

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The supplementary challan was submitted against Dinesh Rathee, Brijesh @ Julfi and Sandeep @ Guddu on 06.10.2022.

On 12.10.2022, accused Mohit @ Mota was arrested in the present case and on interrogation, disclosed that after the theft, the tanker/truck had been driven by Ravinder @ Chirkut and had been taken to Gurugram on the instructions of Dinesh Rathee and Sunil @ Banda. The stolen oil had been sold to Nakul Bedi (petitioner) and his companions. Dinesh Rathee, Ravinder @ Chirkut, Sunil @ Banda knew the location of Nakul Bedi (petitioner).

On 12.12.2022, accused-Nakul Bedi (petitioner) and Sunil @ Banda were arrested in the present case and while admitting their guilt, Sunil @ Banda disclosed that Amit Rana had got them introduced to Nakul Bedi and Yash Raj and a deal for purchasing the stolen oil was settled between them at Rs.62/- per liter and after committing the theft, the tanker had been taken to Narsinghpura from where the stolen oil had been sold to Nakul Bedi and Yash Raj and 13,000/- liters of stolen oil had been sold for Rs.8,00,000/- which had been distributed between their gang members. Similar facts were disclosed by the petitioner-Nakul Bedi in his disclosure statement. The petitioner got recovered Rs.22,000/- whereas the accused Sunil @ Banda got recovered Rs.25,000/-.

After completion of investigation, a supplementary challan was submitted against Mohit @ Mota, Nakul Bedi (petitioner) and Sunil @ Banda on 12.01.2023.

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Neeraj @ Bachhi, Ashish, Suraj, Rahul, Deepak @ Lota, Yashraj, Navneet and Amit Rana are yet to be joined in the investigation in the present case.

3. The learned 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 statement of the arrested accused. The said disclosure statements have no evidentiary value in the eyes of law. The investigating agency had raided the premises of the petitioner but the said premises does not belong to the petitioner. As the petitioner was in custody since 14.12.2022 and none of the 26 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, 285, 427, 117, 411, 120-B, 34 IPC, 3/4 Explosive Substance Act, 3/4 Prevention of Damage to the Public Property Act and Sections 15/16, Petroleum and Pipe Lines Act, 1962 at Police Station Bawal, District Rewari and FIR No.264 dated 26.12.2021 under Sections 15 of Petroleum and Minerals Pipelines Act (Acquisition of Right of Users in Land Act, Sections 3 and 4 of Explosive Substances Act, Sections 379, 34 IPC, Sections 3 and 4 of the Prevention of Damage to Public Property Act (Sections 117, 120-B, 413 IPC, Section 16 of Petroleum and Pipelines (Acquisition of Right of User in Land), Section 15(IV) of Petroleum and Pipelines (Acquisition of Right of User in Land) and Section 25 of the Arms Act at Police Station

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Rampura, District Rewari, the petitioner had been granted the similar concession by this Court vide orders dated 28.04.2023 passed in CRM-M-20143-2023 and 12.05.2023 passed in CRM-M-20150-2023 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 the fact that the said oil had been stolen. He contends that the petitioner was an accused in 06 other FIRs of identical nature bearing FIR No.470 dated 20.06.2021 under Sections 379, 427, 285, 34, 120-B IPC, 3/4 Explosive Substance Act, 4/5/6/7/8/9 of Essential Service Maintenance Act, 1968, 3/4 Prevention of Damage to the Public Property Act and Sections 15/16 of Petroleum and Pipe Line Act, 1962, at Police Station Kharkhoda, Sonipat, FIR No.112 of 2021 under Sections 379/285/427/117/411/120-B/34 IPC, Sections 15/16 of Petroleum and Pipe Line Act, 1962, 3/4 Explosive Substance Act, 3/4 Prevention of Damage to the Public Property Act and Sections 4/5/6/7/8/9 of Essential Service Maintenance Act, 1968 at Police Station Bawal, District Rewari, FIR No.87 of 2021 under Sections 379, 285, 427, 34 IPC, Sections 15/16 of Petroleum and Pipe Line Act, 1962, 3/4 Explosive Substance Act, Section 3/4 Prevention of Damage to the Public Property Act and Sections 4/5/6/7/8/9 of Essential Service Maintenance Act, 1968 at Police Station Rohadi, District Rewari, FIR No.75 of 2021 under Sections 379,

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285, 427, 34 IPC, Sections 15/16 of Petroleum and Pipe Line Act, 1962, 3/4 Explosive Substance Act, Section 3/4 Prevention of Damage to the Public Property Act and Sections 4/5/6/7/8/9 of Essential Service Maintenance Act, 1968 at Police Station Rohadi, District Rewari, FIR No.09 of 2021 under Sections 379, 285, 411, 413, 420, 467, 468, 471, 120-B, 34 IPC, Sections 15/16 of Petroleum and Pipe Line Act, 1962, 3/4 Explosive Substance Act, Section 3/4 Prevention of Damage to the Public Property Act and Sections 4/5/6/7/8/9 of Essential Service Maintenance Act, 1968 at Police Station Bawal, District Rewari and FIR No.264 dated 26.12.2021 under Sections 15 of Petroleum and Minerals Pipelines Act (Acquisition of Right of Users in Land) Act, Sections 3 and 4 of Explosive Substances Act, Sections 379, 34 IPC, Sections 3 and 4 of the Prevention of Damage to Public Property Act (Sections 117, 120-B, 413 IPC, Section 16 of Petroleum and Pipelines (Acquisition of Right of User in Land), Section 15(IV) of Petroleum and Pipelines (Acquisition of Right of User in Land) and Section 25 of the Arms Act at Police Station Rampura, District Rewari, 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 14.12.2022, none of the 26 prosecution witnesses had been examined so far and in two cases of identical nature arising out of FIR No.112 dated 10.04.2021 and FIR No.264 dated 26.12.2021, the petitioner has been granted the concession

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of bail by this Court vide orders dated 28.04.2023 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 14.12.2022, investigation stands completed and none of 26 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 orders dated 28.04.2023 passed in CRM-M-20143-2023 and 12.05.2023 passed in CRM-M-20150-2023 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-Nakul Bedi 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 and furnish an affidavit each time that he is not involved in any case/crime other than the case(s) mentioned in this order

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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

May 18, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No