

2023:PHHC:115953

CRM-M-25525-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25525-2023 (O & M)

Date of Decision: 04.09.2023

Deshraj @ Deshu

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parmod Kumar, 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.75 dated 29.07.2021 under Sections 379, 117, 427, 120-B IPC, Sections 15/16 of the Petroleum and Minerals Pipeline Act, 1962, Sections 3 and 4 of the Explosive Substance Act, 1908 and Sections 3 & 4 PDPP Act, 1984 registered at Police Station Rohdai, District Rewari.

2. The present FIR came to be registered on the basis of a written application moved by the Operation Manager. As per the Manager IOCL, he had gone to the spot on being asked by the Guard Sukhbir on 29.07.2021 that Crude Oil was spilling in the vicinity of

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Umed's fields and that someone had installed a hole/valve in the pipeline. Based on the information, the officials from IOCL had visited the site and an area adjacent to the pipeline where they had discovered that a valve/hole had been installed in the pipeline thereby committing the act of theft of Crude Oil and damage to property. On the basis of the complaint filed, the FIR came to be registered.

During the course of investigation, co-accused Ravi Kumar, Harish alias Mistri, Anil alias Sonu, Ravinder alias Bablu, Vijay alias Ajay, Binder, Suraj, Manish and Sunny were arrested in FIR No.112/2021 registered at Police Station Bawal. They were interrogated. They admitted their involvement in the commission of the present offence as well. They were arrested in the present case and interrogated. Based on their disclosure statements, offences punishable under Sections 117, 120-N, 411 IPC were added to the case. It came on record that the equipment and vehicles used by the said accused in commission of the present crime had already been recovered by them while being in custody in connection with FIR No.112 of 2021 registered at Police Station Bawal.

Thereafter, a sum of Rs.1700 was recovered from Suraj, a sum of Rs.1300/- was recovered from Sunny and a sum of Rs.2300/- was recovered from Ravinder alias Chirkut, a sum of Rs.1600/- was recovered from Ravi, a sum of Rs.3200/- was recovered from Harish, a sum of Rs.3700/- was recovered from Binder, a sum of Rs.1400/- was recovered

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from Vijay, a sum of Rs.1000/- was recovered from Manish alias Sonu and a sum of Rs.2400/- was recovered from Anil. The recovered amounts were taken into possession in terms of separate memos prepared in this regard. The arrested accused got demarcated the places of occurrence.

During further investigation, it was found that co-accused Nakul Bedi was a habitual criminal and was involved in the sale and purchase of stolen oil and accordingly, the offences punishable under Sections 413 and 15(IV) of PMPL Amendment Act, 2021 were added to the case and the offence punishable under Section 411 IPC was dropped. The final report qua the above-named accused was submitted in the Court on 10.05.2022.

During the course of further investigation, accused Dinesh Rathi and Narender Singh were arrested in the present case on 19.09.2022. They were interrogated while being in custody and they admitted their involvement in the commission of the present crime as well.

Accused-Pawan (since granted bail vide order dated 26.07.2023 passed in CRM-M-856-2023), petitioner-Desh Raj and Nakul Bedi (since granted bail vide order dated 26.07.2023 passed in CRM-M-29073-2023) had been arrested in the another case. Their production warrants were issued and they were joined in the investigation in the present case as well when they were arrested.

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A sum of Rs.10,000/- was recovered from Pawan, a sum of Rs.30,000/- was recovered from the co-accused-Nakul Bedi, a sum of Rs.10,000/- was recovered from the petitioner-Deshraj @ Deshu and likewise, a sum of Rs.10,000/- was recovered from co-accused Dinesh Rathi from the proceeds of the sale of stolen oil.

Consequent upon the completion of the investigation qua Pawan, Narender, Dinesh Rathi and Nakul Bedi, a supplementary report under Section 173(8) was submitted in the Court on 18.12.2022.

During the course of further investigation, co-accused Sunil alias Banda was arrested and the final report qua him was also submitted in the Court.

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 statements of the arrested accused. The said disclosure statements have no evidentiary value in the eyes of law. As the petitioner was in custody since 05.11.2022 and only 04 out of the 29 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in four other similar cases registered against him vide FIR No.112 dated 10.04.2021 under Sections 379/413/34/117/411/420/467/468/471/120-B/201 IPC, Sections 15/16 and 15(IV) of the Petroleum and Mineral Pipe Line Act, 2021, 3/4 of the Explosive Substances Act, Sections 3/4 Prevention of Damage to the Public Property Act, 1984 at Police Station Bawal, FIR No.264 dated

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26.12.2021 under Sections 379, 413, 34, 117, 411, 420, 467, 468, 471, 120-B and 201 IPC, Sections 15/16 and 15(IV) of the Petroleum and Minerals Pipelines Act, 2021, Sections 3 and 4 of the Explosive Substances Act, 1908 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984 at Police Station Rampura, FIR No.94 dated 25.03.2021 under Sections 379/34/117/120B/413 IPC, 15/16, 15(iv) of the Petroleum and Mineral Pipelines (Acquisition of Rights of User in Land) Act, 1962, 3/4 Explosive Substances Act, 1908, Sections 3/4 PDPP Act, 1984 and Sections 25/54/59 of the Arms Act, 1984, Police Station Bawal, District Rewari and FIR No.93 dated 26.03.2021 under Sections 379/286/268/285/34 IPC and Sections 3/4 of the Explosive Substances Act, 1908 and Section 3 of the Motor Spirit and High Speed Diesel Order, 1908 and Sections 15, 16 PMP Act, 1962 at Police Station Badli, he had been granted the concession of bail by this Court vide orders dated 01.06.2023 passed in CRM-M-25646-2023 and order dated 12.07.2023 in CRM-M-17663-2023 and order dated 17.07.2023 passed in CRM-M-25638-2023 respectively whereas in FIR No.93 dated 26.03.2021, he had been granted the similar concession vide order dated 12.04.2023 in CIS No.BA-567-2023 passed by the Additional Sessions Judge, Jhajjar.

4. The learned counsel for the State, on the other hand, contends that the petitioner is one of the main accused who had committed the offence alongwith the other accused. He contends that the

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petitioner was an accused in four other identical cases i.e. FIR No.112 dated 10.04.2021, FIR No.264 dated 26.12.2021, FIR No.94 dated 25.03.2021 and FIR No.93 dated 26.03.2021, 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 05.11.2022, only 04 out of the 29 prosecution witnesses have been examined so far and in aforesaid four cases of identical nature, the petitioner has already been granted the concession of bail either by this Court or by the Sessions Court.

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 05.11.2022, investigation stands completed and only 04 out of the 29 prosecution witnesses have been examined so far. In four other similar cases registered against him vide FIR No.112 dated 10.04.2021, FIR No.264 dated 26.12.2021, FIR No.94 dated 25.03.2021 and FIR No.93 dated 26.03.2021, he has already been granted the similar concession either by this Court or by the Sessions Court. Further, two co-accused, namely, Pawan and Nakul Bedi have already been granted the concession of bail. Therefore, his further incarceration in the present case is not required.

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7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Deshraj @ Deshu 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.

9. In addition, the petitioner (or through someone else on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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

September 04, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No