

CRM-M-35326-2022 (O&M)

212

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35326-2022 (O&M)

Date of decision: July 28, 2023

Vipul Jain

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Arnav Sood, Advocate for petitioner.

Mr. Karan Garg, AAG Haryana.

ARUN MONGA, J. (ORAL)

This is second foray of the petitioner seeking bail in a case bearing FIR No.293 dated 26.06.2020, registered under Sections 124A, 153B, 420, 467, 468, 471 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 420, 467, 468, 471, 120-B IPC added later on), at Police Station, Sadar Sonipat. First petition bearing CRM-M-30958-2021 was dismissed by a co-ordinate Bench of this Court, on 29.09.2021.

2. Per prosecution version, policy party had a secret information that Vikas Verma @ Mohd. Vikas was working for banned organization i.e., Sikh for justice. He was arrested from Airport, New Delhi. He made a custodial statement that on 22.11.2018 he got married to a Maham Amir from Pakistani, after converting his religion. Maham Amir wife of Vikas Mohammad, reached India via Nepal without visa and passport and was living in Sonipat. Vikas had obtained sim cards on fake ID from Assam and other places viz Ratlam and Indore with the help of his friend Vipul Jain (petitioner herein). On further investigation, petitioner was arrested as suspect on 29.12.2020 from Sonipat. During police remand, Vikas Verma got 100 sim cards recovered, allegedly procured on fake ID in connivance with petitioner. Besides this, co-accused Punit, supplier of sim cards, was also arrested. Petitioner is in custody since 29.12.2020.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Per allegations, it is co-accused-Punit who supplied sim cards to the petitioner without any ID proof and said co-accused has already been granted

CRM-M-35326-2022 (O&M)

concession of bail by a co-ordinate Bench of this Court vide order dated 02.07.2021 (Annexure P-2) in CRM-M-17929-2021. He submits that petitioner has nothing to do with the alleged offence. Nothing is to be recovered from the petitioner. He has been implicated in this case on the basis of custodial disclosure statement of co-accused, namely Vikas Verma. Even he was also later granted concession of interim bail for a period of six months by learned trial Court vide order dated 30.07.2022.

3.1. Learned counsel for petitioner relies on decision dated 11.05.2022 passed by the Supreme Court in *S.G. Vombatkere Vs. Union of India*¹ wherein provisions of Section 124-A IPC have been directed to be re-examined and re-considered and further to keep the usage of the aforesaid provision in abeyance.

4. On the other hand, learned State counsel, on instructions from SI Ashok, opposes the bail petition. He submits that petitioner has committed a serious offence. If enlarged on bail, petitioner may tamper with the evidence and/ or influence the witnesses. Challan has already been presented, but charges have not been framed yet.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel informs that out of 15 witnesses, none has been examined so far. He further informs that there is no other case against the petitioner. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Since trial has commenced, petitioner is thus not required for any further custodial interrogation. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 2 years and 7 months in preventive custody, being behind bars since 29.12.2020.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses, particularly when he has clean antecedents.

CRM-M-35326-2022 (O&M)

8. Petitioner is stated to be 23-year old unmarried young boy and has to look after his parents and has already lost his livelihood. His continued incarceration will have further adversarial impact on his career prospects and he may be rendered jobless forever. Being a family man having responsibilities and fixed abode, it is unlikely that he poses any flight risk and will flee from the trial proceedings.
9. Co-accused of the petitioner, attributed with similar role, has already been granted concession of bail by learned a co-ordinate Bench of this Court. In the premise, I see no reason as to why petitioner should not be meted out similar treatment.
10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
13. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 28, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No