

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36087-2023 (O/M)

Date of decision : 22.09.2023

Soni

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present:- Mr. Madan Sandhu, Advocate
for the petitioner.

Mr. Vipin Pal Yadav, Additional A.G. Punjab.

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HARSH BUNGER, J.

1. Petitioner (Soni) has filed this second petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case FIR No. 246 dated 17.09.2022, registered under Sections 419, 420, 465, 467, 468, 471 IPC at Police Station Sultanpur Lodhi, District Kapurthala.
2. The first petition filed under Section 439 of the Code of Criminal Procedure (CRM-M-57599-2022) by petitioner was withdrawn vide order dated 21.03.2023.
3. Short reply by way of affidavit dated 04.09.2023 of Mr. Babandeep Singh, PPS, Deputy Superintendent of Police, Sub Division Sultanpur Lodhi, Kapurthala, has been filed on behalf of State of Punjab, which is already on record.

4. Custody certificate dated 22.09.2023 of the petitioner has been filed by learned State counsel in Court today itself which is taken on record subject to all just exceptions.

5. Briefly, FIR No. 246 dated 17.09.2022 was registered on the basis of a complaint made by Ahlmad Harjinder Singh stating therein that on 05.05.2020, the bail of accused Rajpal Singh alias Pala son of Soni (petitioner herein) was cancelled in FIR No. 93 dated 09.07.2020 registered under Section 379 IPC, Police Station Talwandi Chaudharaian and notice to his surety was issued. Surety was given by one Gurdev Singh son of Jagat Singh, resident of Khojewal, Kapurthala. The said Gurdev Singh appeared and after seeing the surety bonds of accused Rajpal Singh alias Pala son of Soni, Gurdev Singh stated that he had seen the photograph of Gurdev Singh, who stood as surety, which is affixed on the surety bonds, however, the photograph affixed on the surety bonds is not his and someone falsely claimed himself to be Gurdev Singh. He further stated that he has also seen the photographs of Manjeet Singh, Nambardar of village Khojewal and Soni son of Sarwan Singh, however, they are not residing in his village. The papers pertaining to land attached with bonds belongs to him, however, he never furnished his land as surety in the abovementioned case. In this way, said Rajpal Singh in conspiracy with unknown persons by affixing their photographs on the surety bonds impersonated said Gurdev Singh. Even the false Aadhar card and identity card were furnished.

6. As per short reply, during the course of investigation, the petitioner was nominated as accused in present FIR, vide DDR No. 10,

dated 19.09.2022. Soni (petitioner) was arrested in the instant case on 19.09.2022. He suffered disclosure statement that his son, namely, Rajpal, who was in jail, has sent two persons as his surety for releasing him (Rajpal) from jail and those two persons approached the petitioner and disclosed their name as Manjeet Singh and Gurdev Singh. They submitted the surety bonds and the petitioner attested the same. The petitioner further disclosed that he did not know Manjeet Singh and Gurdev Singh, who were sent by his son.

After completion of investigation, the challan in FIR was filed in the concerned Court on 17.12.2022 and now the trial is pending.

7. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the instant case. It is submitted that the petitioner never impersonated himself as Gurdev Singh. Rather, he was a victim at the hands of said Manjeet Singh, who represented himself to be Numberdar of village Khojewal and his accomplice as Gurdev Singh. It is submitted that the petitioner is an illiterate person and a driver by profession, who has five children and he is the sole bread earner in his family.

Learned counsel for the petitioner contends that the petitioner is in custody since 19.09.2022 in this case and no other case is pending against him. It is stated that investigation qua the petitioner is complete, challan stands presented, thus trial in the case is likely to take long time to conclude and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is

ready to abide by all the conditions as may be imposed by this Court or by the trial Court. Accordingly, prayer for grant of regular bail is made.

8. Per contra, learned State counsel has opposed the prayer for grant of regular bail while reiterating the contents of the short reply and submitted that there are serious allegations of impersonation levelled in this case and the petitioner had identified the impersonators. It is submitted that there is sufficient incriminating material against the petitioner and in case the petitioner is released on regular bail then he may influence the witnesses or may even abscond which would delay the trial.

However, learned State counsel has not disputed the fact that the petitioner has been in custody since 19.09.2022 and also that the challan stands submitted in this case and trial is going on and there are 08 prosecution witnesses. It is also not disputed that there is no other case against the petitioner.

9. I have heard learned counsel for the parties and perused the paper book as well as the status report with their able assistance.

10. The petitioner is an old man of about 52 years of age, who is stated to be a driver by profession. He is also stated to be an illiterate person and has five children in his family and he is sole bread earner in his family. The petitioner has been in custody since 19.09.2022 and as per the custody certificate, he has undergone total custody of 1 year, 4 days (as on 22.09.2023) and there is no other case against the petitioner. The investigation in this case is complete, challan stands submitted and the trial is going on. There are 08 prosecution witnesses cited, thus, the trial is likely to take some time to conclude.

11. So far as the apprehension expressed by learned State counsel that the witnesses could be influenced by petitioner, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent court for cancellation of bail. Accordingly, it is observed that the State/Prosecuting Agency/State police shall be at liberty to observe the behaviour of the petitioner during bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move the trial Court for cancellation of bail, which shall be decided by the trial Court on merits.

12. Keeping in view the aforementioned circumstances, present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

13. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.
14. The petition is accordingly disposed of.
15. All pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

22.09.2023.
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No