

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

294

CRM-M No.38048 of 2023 (O&M)  
Date of decision: 18.12.2023

Balwinder Singh Sandhu  
....Petitioner

Versus

State of Punjab  
....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

**Present:** Dr. Anmol Rattan Sidhu, Sr. Advocate  
with Mr. Mandeep Singla, Advocate  
for the petitioner.

Mr. Rozer K. Aggarwal, AAG, Punjab.

**NAMIT KUMAR J. (Oral)**

This 3<sup>rd</sup> petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.62 dated 30.03.2008, registered under Sections 419, 170, 189, 507 IPC at Police Station Phillaur, District Jalandhar.

Learned Senior counsel for the petitioner submits that, as per the allegations in the FIR, the complainant stated that one telephone is received from the Deputy Superintendent of Police, Sub-Division Phillaur that on his phone No.99157-16018 at about 8:16 PM one phone from 98555-00008 has been received and the caller said that “I am A.D.G.P. Chander Shekhar speaking and what is the situation about your law and order and he said that your barricades are very less.” On which the Deputy Superintendent of Police, Sub-Division Phillaur, asked him that “*you are not appearing to be Chander Shekhar*” and he replied that “*when I will call you at Chandigarh then you will come to*

*know*”. Then he said that “*Balwinder Singh Ghudka is sitting with me and whether any application is received against him or not and if received, then no action should be taken against him*”. Thereafter, the caller uttered many vulgar words and threatened and also pressurized the Deputy Superintendent of Police, Sub-Division Phillaur and thus, the present FIR has been registered against the petitioner.

Learned senior counsel for the petitioner contends that the 1<sup>st</sup> regular bail application i.e. CRM-M No.48458 of 2022, filed by the petitioner was dismissed as withdrawn on 27.10.2022 and thereafter, the 2<sup>nd</sup> bail application i.e. CRM-M No.58571 of 2022, was dismissed on merits on 20.12.2022, by this Court. Even thereafter, the petitioner has filed another petition i.e. CRM-M No.27093 of 2023, for seeking interim bail in the impugned FIR No.62 dated 30.03.2008 and the same was dismissed with cost of Rs.15,000/- vide order dated 26.05.2023. Thereafter, against the aforesaid orders dated 20.12.2022 passed by this Court in CRM-M No.58571 of 2022 and dated 26.05.2023 passed in CRM-M No.27093 of 2023, the petitioner approached the Hon’ble Supreme Court vide SLP (Crl.) No.8106-8107 of 2023 and the same was also dismissed as withdrawn on 26.07.2023 and thus, he filed the present 3<sup>rd</sup> petition.

Learned senior counsel for the petitioner submits that the new ground for filing this 3<sup>rd</sup> petition is that the petitioner is in custody for approximately 01 year and the trial is proceeding at a very slow pace.

Learned senior counsel for the petitioner further submits that apart from the present FIR, the petitioner is involved in 09 other

FIRs also, however, he is on bail in all the cases. For a ready reference, the details of the other FIRs, registered against the petitioner, in which he is on bail, is as under:-

| Sr. No. | FIR Nos. | Dated      | Under Sections                                                      | Police Station & District                          | Status                                                                                       |
|---------|----------|------------|---------------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------------------------------|
| 1.      | 60       | 31.03.2008 | 25/54/59 of Arms Act                                                | Goraya, District Jalandhar                         | On Bail (granted by this Court vide order dated 27.10.2022 passed in CRM-M No.48435 of 2022) |
| 2.      | 64       | 01.04.2008 | 18/61/85 of NDPS Act                                                | Goraya, District Jalandhar                         | Already Undergone                                                                            |
| 3.      | 09       | 12.01.2012 | 420, 465, 468, 471, 120-B IPC                                       | Phillaur, District Jalandhar                       | On Bail (granted by this Court vide order dated 19.09.2023 passed in CRM-M No.37182 of 2023) |
| 4.      | 59       | 11.04.2015 | 380, 379, 382, 420, 467, 468, 471, 473 IPC and 25/54/59 of Arms Act | Lalru, District Patiala                            | On Bail (granted by learned trial Court vide order dated 09.11.2022)                         |
| 5.      | 69       | 01.01.2015 | 420, 170, 171, 465, 468, 471 IPC                                    | Lalru, District Patiala                            | On Bail                                                                                      |
| 6.      | 69       | 01.05.2015 | 420, 471, 170, 171, 465, 468 IPC                                    | Handesra, Dera Bassi, District S.A.S Nagar, Mohali | On Bail (granted by learned trial Court vide order dated 09.11.2022)                         |

|    |     |            |                                    |                                         |                                                                                              |
|----|-----|------------|------------------------------------|-----------------------------------------|----------------------------------------------------------------------------------------------|
| 7. | 174 | 22.12.2022 | 223, 224, IPC                      | Majitha Road, Amritsar Commissioner ate | On Bail (granted by learned trial Court vide order dated 24.04.2023 by JMIC, Amritsar)       |
| 8. | 157 | 10.12.2009 | 420, 465, 467, 468, 471, 120-B IPC | Sudhar, Jagraon, Ludhiana.              | On Bail (granted by learned trial Court)                                                     |
| 9. | 59  | 31.03.2008 | 170, 420, 465, 468, 471 IPC        | Goraya, District Jalandhar              | On Bail (granted by this Court vide order dated 19.09.2023 passed in CRM-M No.37187 of 2023) |

Learned senior counsel for the petitioner further submits that there is no evidence available on record to prove that the petitioner has made the aforesaid call to the Deputy Superintendent of Police, Sub-Division Phillaur and uttered vulgar words and threatened him. He also submits that the police has already seized the passport of the petitioner, bearing No.U0942693 valid from 06.02.2020 to 05.202.2030 and thus, the petitioner cannot flee from the process of law.

Learned senior counsel for the petitioned has placed reliance upon the judgment **“Prabhakar Tewari vs State of U.P. and another”, (2020) 11 SCC 648**, to submit that merely other cases are pending against the petitioner, this factor by itself cannot be the basis for refusal of prayer for bail. He also placed reliance upon the judgment of the Hon’ble Supreme Court in **“Maulana Mohd. Amir Rashadi vs State of U.P. and another”, 2012 (2) SCC 382**, to contend

that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced as under:-

*“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”*

Learned senior counsel for the petitioner lastly, submits that the investigation in the present case has been completed as the challan stands presented before the learned trial Court and even charges have been framed against the petitioner and out of total 09 PWs, cited in the list of witnesses, none has been examined so far and being the magestrial trial, the conclusion of the trial is likely to take some more time.

*Per contra*, learned State counsel assisted by Investigating Officer, has opposed the aforesaid prayer on the ground that the petitioner was declared as proclaimed offender on 09.05.2013, and was arrested on 28.08.2022 and remained in custody till 21.12.2022, thereafter, he again escaped from hospital and then, was re-arrested on 24.04.2023. He further submits that the petitioner is a habitual offender involved in as many as 09 other cases and committed serious crime.

I have heard learned counsel for the parties and perused the

record.

Without commenting anything on merits of the case, considering the law laid down by the Hon'ble Supreme Court in ***Prabhakar Tewari's case (supra)*** and ***Maulana Mohd. Amir Rashadi's case (supra)***, and also in view of the fact that the petitioner is in custody for the last 01 year approximately; the investigation is completed; challan stands presented; charges have been framed against the petitioner; the offences are triable by the Magistrate and out of total 09 PWs, none has been examined till date and the conclusion of the trial is likely to take considerable time, this petition is allowed and the petitioner is directed to be released on regular bail during trial on his furnishing **heavy bail bonds/surety bonds** to the satisfaction of Illaqa Magistrate/Trial Court/Chief Judicial Magistrate.

However, apart from conditions that may be imposed by the trial Court/Duty Magistrate/Illaqa Magistrate concerned, if any, the petitioner shall remain bound by the following conditions: -

- (i) *The petitioner shall not mis-use the liberty granted.*
- (ii) *The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) *The petitioner shall not absent himself on any date before the trial.*
- (iv) *The petitioner shall not commit any offence similar to the one alleged in the present case.*
- (v) *The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) *The petitioner shall give his cellphone number to the police authorities and shall not change his cellphone number without permission of the trial Court.*

- (vii) *The petitioner shall not, in any manner, try to delay the trial.*
- (viii) *The petitioner shall not leave the country without prior permission of the Court.*

In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move an application for cancellation of bail of the petitioner.

18.12.2023

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(NAMIT KUMAR)  
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No