

Lakhwinder Singh @ Bittu

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dinesh Kumar Prajapati, Advocate for the petitioner.
Ms. Navreet K. Barnala, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
46	10 th March, 2023	City Fazilka, District Fazilka	379, 411, 413 of IPC, 1860

2. Learned counsel for the petitioner claims parity with co-accused Kulwinder Singh @ Kinder who was granted bail by the Sessions Court on 25th April, 2023.

3. The following order was passed by Sessions Court on 25th April, 2023:-

“This order of mine shall dispose of regular bail application U/S 439 Cr.P.C. moved by the above named applicant-accused in the aforementioned FIR.

2. The brief facts leading to the filing of the present bail application are that the present case was got registered on the basis of a ruqa sent by ASI Jatinder Singh No. 500 posted at police station City, Fazilka informing that when he along with other police officials, boarded on a Government vehicle, was present at T. Point village Penchanwali in connection with patrolling and checking of suspected persons, a secret informer gave information that Lakhwinder Singh @ Bittu son of Harbans Singh resident of village Tarobri, Davinder Singh @ Lucky son of Amarjit Singh and Kulwinder Singh @ Kinder son of Surjit Singh residents of village Lakheke Uttar are habitual of stealing motor cycles and on that day also, by riding on a stolen motor cycle, they were planning to steal another motor cycle or to

sell the stolen motor cycle to someone and in this connection, they were standing inside gate no. 2 of Grain Market, near Peer Baba Samadh, Fazilka. If a raid is conducted right know, they can be apprehended and stolen motor cycle can be recovered from their possession and further the recovery of other stolen motor cycles can also be effected. On the basis of said ruqa, present FIR was got registered against Lakhwinder Singh @ Bittu, Davinder Singh @ Lucky and Kulwinder Singh @ Kinder. During investigation, accused Lakhwinder Singh @ Bittu and Kulwinder Singh @ Kinder were arrested and their disclosure statements under section 27 Evidence Act were recorded. Hence, the present regular bail application has been filed on their behalf.

3. *Notice of the bail application was given to the State. Learned Addl. P.P. appeared on behalf of the State and contested the same for the State.*

4. *This Court has heard the contentions raised by learned counsel for the applicant as well as learned Addl. P.P. for the State and have also perused the record of the case.*

5. *The learned counsel for the applicant-accused contended that the applicant-accused is in judicial custody since 10.03.2023. The applicant-accused has not committed any offence and he has been falsely implicated in the present case due to political vendetta. Nothing is to be recovered from the applicant-accused. The applicant undertakes to appear on each and every date of hearing and shall not leave the country without permission and shall not tamper with prosecution evidence. The conclusion of trial shall take long time and prayer was made for acceptance of the present bail application.*

Whereas, on the other hand, learned Addl. P.P. for the State opposed the present bail application. He has contended that accused-applicants along with his co-accused committed the serious offence by stealing and keeping in their possession stolen motor cycles and they are also involved in some other criminal cases. Thus, applicant-accused does not deserve the benefit of bail and prayed for the dismissal of bail application.

6. *This court has considered the rival contentions of both the sides. The applicant is in judicial custody since 10.03.2023 i.e. for the past 1½ month. Moreover, the conclusion of trial shall take long time. No useful purpose shall be served by detaining the applicant in jail for an indefinite period. So the allegations levelled against the applicant are not suffice for his detention in the jail till the conclusion of trial. So, in these circumstances, it is a fit case where the benefit of regular bail must be given to accused-applicant.*

7. *Resultantly, the application succeeds and is, hereby, accepted. The accused-applicant is admitted to bail on his furnishing personal bonds in the sum of Rs.1,00,000/- (Rupees One Lakh only) with one surety of the like amount before the Illaqa Magistrate/Duty Magistrate/Trial Court. Applicant shall appear in the court on each and every date of hearing; shall not tamper with the prosecution evidence and shall not leave India without its permission. The observation made here above shall have no effect on the merits of the case. Bail Papers be consigned to the record room after due compilation. Police record be returned.*

4. Learned counsel for the State opposes the prayer for grant of bail stating that petitioner is involved in four other cases, however, fairly relying upon the custody certificate submits that he is on bail in all other cases. She on instructions is not in a position to distinguish the case of

the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. The petition is allowed.

7. Since the main case has been allowed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

31st August, 2023
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |