

2023:PHHC:137783

CRM-M-41808-2023 (O & M)

::1::

(232-a)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41808-2023 (O & M)
Date of Decision: 19.10.2023

Anil @ Sonu

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ankur Lal, 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.87 dated 18.08.2021 under Section 15 of the Petroleum and Pipe Lines Act, 1962, 3/4 of the Explosive Substances Act, 1908 and Sections 379 and 511 of the IPC and Sections 3/4 of the Public Prevention and Damage to Public Property Act (subsequently added and Sections 16 and 15(4) of the Petroleum & Mineral Pipe Line Act, 2021) registered at Police Station Rohadai, District Rewari.

2. The brief facts of the case are that on 18.08.2021, Sunil Kumar, Patrolling Man, saw in the morning at about 10.30 a.m., that on Pipeline No. CH 217.800 in village Rohdai, there was some loose soil. Upon suspicion, Sunil Kumar tried to insert a metal rod into the loose soil and the rod got inserted into the soil easily. When he tried to dig out the soil, he found that on the IOCL pipeline there were two valves fitted.

CRM-M-41808-2023 (O & M)

::2::

(232-a)

From his mobile No. 9671402766 information was given to the IOCL mail line officer i.e. to the complainant-Sachin Yadav on his mobile No. 88827-21571. Upon receiving the information, Sachin Yadav transmitted the same to the IOCL higher officers and reached at the spot. Upon checking, it was found that two valves had been fitted on the SMPL line. Some unknown persons were found to have committed theft of oil through the IOCL pipeline.

During the course of investigation, the Superintendent of Police, Rewari constituted an SIT. FIR No. 112 dated 10.04.2021, Police Station Bawal was found to have been registered against Ravi, Harish, Ravinder @ Bablu, Vijay @ Ajay, Binder, Suraj, Manish alongwith the petitioner-Anil @ Sonu and they had been arrested in the said case. They had suffered their respective disclosure statements admitting their involvement in the commission of the present crime as well and stated that the equipment used in the commission of the offence had already been recovered by the police during the course of investigation of FIR No.112 dated 10.04.2021. The petitioner alongwith the other co-accused were taken on production warrants and were joined in investigation. They were arrested on 14.02.2022 in the instant case.

The petitioner was found to be the driver of the oil tanker which was used to transport the stolen oil. The said tanker had been recovered from him during the course of investigation of FIR No.112 dated 10.04.2021. It had also transpired that the petitioner had been

CRM-M-41808-2023 (O & M)

::3::

(232-a)

instrumental in digging up the place of theft at the pipeline site to facilitate the commission of theft of oil, and therefore, actively participated in the commission of crime.

During the course of further investigation, accused Dinesh Rathi was joined in investigation and admitted his involvement in the commission of the present offence. Co-accused Sunil @ Banda was arrested in connection with the investigation of FIR No.75/2021 registered at Police Station Rohrai and during the course of investigation, admitted his involvement in the present offence as well. The final reports in the present case were filed qua the arrested accused on 13.05.2022, 17.10.2022 and 17.04.2023. However, the final report qua the arrested accused Mohit @ Motta and Brijesh @ Julfi is yet to be filed.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but had been falsely implicated on the basis of his own disclosure statement got recorded when he was arrested in FIR No. 112 dated 10.04.2021. The said disclosure statements has no evidentiary value in the eyes of law. As the petitioner was in custody since 14.02.2022 and only 03 of the 24 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in one of the four other cases registered against him vide FIR No.75 dated 29.07.2021 under Sections 286, 285, 379, 120-B IPC, 15 of Petrol and Pipeline Act and 23 of Petroleum Act and Sections 3 and 4 of PDPP Act and Sections 6/4 of the Explosive Act, Police Station

CRM-M-41808-2023 (O & M)

::4::

(232-a)

Rohrai District Rewari, he had already been granted the concession of bail by this Court vide order dated 31.08.2023 passed in CRM-M-41909-2023.

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 petitioner was an accused in four other cases registered vide FIR No.112 dated 10.04.2021 under Sections 268, 286, 285, 379 and 120-B IPC, Sections 15 of the Petrol and Pipeline Act and 23 of the Petroleum Act and Sections 3/4 PDPP Act, Police Station Bawal, Rewari, FIR No.75 dated 29.07.2021 under Sections 286, 285, 379, 120-B IPC, 15 of Petrol and Pipeline Act and 23 of Petroleum Act and Sections 3 and 4 of PDPP Act and Sections 6/4 of the Explosive Act, Police Station Rohrai District Rewari, FIR No.94 of 2021 under Sections 286, 285, 379 and 120-B IPC, Sections 15 of the Petrol and Pipeline Act and 23 of the Petroleum Act and Sections 3/4 PDPP Act and Sections 6/4 of the Explosive Act, Police Station Bawal, District Rewari and FIR No.264 dated 25.12.2021 under Sections 379, 413, 34, 117, 411, 420, 467, 468, 471, 120-B and 201 IPC, Section 15, 16, 15(IV) of Petroleum and Mineral Pipe Line Act and Sections 3/4 of the Explosive Act, 1908, Police Station Rampura, District Rewari, 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 14.02.2022, only 03 out of the 24 prosecution witnesses had been examined so far and in one of the four

CRM-M-41808-2023 (O & M)

::5::

(232-a)

pending cases i.e. in FIR No.75 dated 29.07.2021, the petitioner had been granted the similar relief vide order dated 31.08.2023.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner has been inculpated on the basis of his own disclosure statements and that of his co-accused suffered in FIR No.112 dated 10.04.2021. 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 14.02.2022, investigation stands completed, and only 03 of the 24 prosecution witnesses have been examined so far. Thus, the trial in the present case is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not warranted, moreso, when in one of the four cases i.e. FIR No.75 dated 29.07.2021 under Sections 286, 285, 379, 120-B IPC, 15 of Petrol and Pipeline Act and 23 of Petroleum Act and Sections 3 and 4 of PDPP Act and Sections 6/4 of the Explosive Act, Police Station Rohrai District Rewari, he has been granted similar relief vide order dated 31.08.2023.

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

CRM-M-41808-2023 (O & M)

::6::

(232-a)

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

October 19, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No