

2023:PHHC:114370

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-41867-2023 (O & M)
Date of Decision: 31.08.2023

Dinesh Rathi

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Robin Singh Hooda, 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.94 dated 25.03.2021 under Sections 15 of Petroleum and Minerals Pipeline Act, 1962, Section 3 and 4 of the Explosive Substances Act, 1908, Sections 3 and 4 of the Damage to Public Property Act, 1984 and Sections 379, 34 IPC (later on added Sections 413, 411, 117, 120-B IPC and Sections 15/16 Amendment Act, 15(IV) of the Petroleum & Mineral Pipe Line Act, 2021) and Sections 25/54/59 of the Arms Act, registered at Police Station Bawal, District Rewari.

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2. The present FIR came to be registered on the basis of a complaint filed by Mahender, Supervisor at Hindustan Petroleum Corporation Limited (HPCL). He alleged that recently they had got an order of security of a pipeline and on No.968300 an oil leak alarm was received, upon which the guard of their security agency and other higher officers had checked the line. The information was also given to the police on 25.03.2021 and police officials inspected the spot. It was found that two valves of two inches and one valve of half inch had been fitted on the pipeline. The name of the owner of the said field was stated to be Hawa Singh.

Pursuant to the registration of the FIR, during the course of investigation, one accused Ankit, who had been arrested in connection with FIR No.276 of 2021 registered at Police Station Sector 29, Panipat admitted his involvement in FIR No.112 of 2021 at Police Station Bawal. As the crime complained of in the said FIR and the present one being of similar nature, he was joined in the investigation of the present case as well. During the course of interrogation, he disclosed the names of his other accomplices and got recovered a sum of Rs.14,200/- being his share.

Co-accused Sandeep (since granted bail vide order dated 29.11.2021 passed by the Additional Sessions Judge, Rewari) was arrested on 18.08.2021 and consequent upon the completion of the

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investigation against Sandeep and Ankit, the report under Section 173(2) Cr.P.C. was presented against them.

On 29.01.2022, co-accused Harish alias Mistri, Ravinder alias Babloo, Vijay alias Ajay, Binder, Suraj, Manish alias Sund were arrested in the present case. They suffered their respective disclosure statements and the name of Pawan surfaced in the said statements. It was found that Pawan had been purchasing stolen oil from the said accused. Harish alias Mistri got recovered the tools used in the commission of the crime alongwith Vehicle No.HR-26-BG-9065 and a sum of Rs.25,200/- during the course of investigation of FIR No.112 of 2021. Co-accused Binder got recovered a sum of Rs.22,000/- and Ritz car bearing No.DL-3CBJ-3980 during the course of investigation of FIR No.112 of 2021. Likewise, other co-accused also got recovered money and the vehicles used by them.

Co-accused Ravinder alias Chirkut got recovered a tanker full of oil from the godown of co-accused-Pawan.

On 03.08.2022, co-accused Sunny was joined in the investigation and he disclosed that there was a gang involved in the commission of theft of oil from the pipelines who were working under the stewardship of the prime accused-Sunil Banda. The said gang had been operating in the areas of Districts Rewari, Sonapat, Rohtak and Jhajjar alongwith certain other districts and had been committing the theft of oil. It transpired that co-accused/Pawan had been repeatedly

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purchasing stolen oil from the gang and had been supplying it from his godown in his vehicles. Pawan was found to be involved in several other cases as well.

The supplementary challan was submitted against the co-accused, namely, Harish, Ravinder, Vijay, Binder, Suraj, Manish and Sunny on 28.04.2022.

On 28.07.2022, Dinesh Rathi (petitioner) and Narender alias Anna were arrested on receipt of appropriate incriminating evidence against them. A country-made weapon alongwith two cartridges were recovered from Dinesh aforesaid alongwith a welding machine and a sum of Rs.1400/- whereas Narender got recovered a sum of Rs.750/-.

On 23.08.2022, Deshraj @ Deshu (since granted bail vide order dated 17.07.2023 passed in CRM-M-25638-2023) alongwith co-accused Nakul Bedi and Pawan were arrested in the present case. They suffered their respective statements stating their involvement in the present case. In pursuance of the said disclosure statements, Nakul Bedi got recovered a sum of Rs.60,000/- being the proceeds of the stolen oil and Desh Raj got recovered a sum of Rs.12,000/-. Co-accused/Pawan got recovered a sum of Rs.15,000/- and consequent upon the completion of the investigation qua them, a supplementary final report was submitted to the Court on 21.11.2022.

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Co-accused Sunil alias Banda was arrested on 07.11.2022 and consequent upon completion of the investigation qua him, a supplementary final report was submitted in the Court.

Thereafter, a co-accused Amit Rana was arrested on 11.04.2023.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but has been arrayed as an accused later on as per the disclosure statements of the arrested accused. The said disclosure statements have no evidentiary value in the eyes of law. As the petitioner was in custody since 28.07.2022 and none of the 30 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in four of the other similar cases registered against him vide FIR No.93 dated 26.03.2021 under Sections 268, 285, 286, 379, 511 and 34 IPC, Sections 15, 16 PMP Act, 1962, Section 4 of the Explosive Substances Act, 1908 and Section 3 of the Motor Spirit and High Speed Diesel Order, 1908, Police Station Badli, District Jhajjar, FIR No.53 dated 22.01.2022 under Sections 15 and 16 of the Petroleum and Mineral Pipe Line Act, 1962, Sections 3 & 4 of PDPP Act, 1908 and Sections 268, 285, 379 and 511 IPC, Police Station Sampla, District Rohtak, FIR No.112 dated 10.04.2021 under Sections 15 and 16 of the Petroleum and Mineral Pipe Line Act, 1962, Sections 3 & 4 of the Explosive Substances Act, 1908 and Sections 3 & 4 of the Prevention of Damage to the Public Property Act, 1984 and 379,

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117, 411, 420, 467, 468, 471, 120-B and 34 IPC, Police Station Bawal, District Rewari and FIR No.264 dated 26.12.2021 under Sections 15/16 and 15(IV) of the Petroleum and Minerals Pipelines Act, 1962 and Sections 379, 34 IPC, Section 3 of the Prevention of Damage to Public Property Act, 1984 at Police Station Rampura, District Rewari, he had already been granted the concession of bail.

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 11 other cases registered vide FIR No.162 of 23.03.2021 under Sections 15, 16 Petroleum & Mineral Pipe Line Act, 1962, Section 4 of the Explosive Substance Act, 1908 and Section 268, 285, 286, 379, 188 IPC and Section 3 Motor Spirit and High Speed Diesel Order, 1998, Police Station Sampla, District Rohtak, FIR No.93 dated 26.03.2021 under Sections 268, 285, 286, 379, 511 and 34 IPC, Sections 15, 16 PMP Act, 1962, Section 4 of the Explosive Substances Act, 1908 and Section 3 of the Motor Spirit and High Speed Diesel Order, 1908, Police Station Badli, District Jhajjar, FIR No.127 dated 03.08.2021 under Sections 268, 285, 286, 379 and 34 IPC, etc. under Sections 15, 16 Petroleum & Mineral Pipe Line Act, 1962, Section 4 of the Explosive Substance Act, 1908, Police Station Macchraul, District Panipat, FIR No.350 dated 09.09.2021 under Sections 379, 511 IPC and Sections 15, 16 Petroleum & Mineral Pipe Line Act, 1962, Section 3 of

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the PDPP Act, 1984, Police Station Sadar Jhajjar, District Jhajjar, FIR No.450 dated 23.12.2021 under Sections 379, 285, 511 and 34 IPC and Sections 15, 16 of the Petroleum & Mineral Pipe Line Act, 1962 and Section 3 of the PDPP Act, 1984, Police Station Asauda, FIR No.53 dated 22.01.2022 under Sections 15 and 16 of the Petroleum and Mineral Pipe Line Act, 1962, Sections 3 & 4 of PDPP Act, 1908 and Sections 268, 285, 379 and 511 IPC, Police Station Sampla, District Rohtak, FIR No.461 dated 18.08.2021 under Sections 15 and 16 Petroleum & Mineral Pipe Line Act, 1962, Sections 3 & 4 of PDPP Act, 1908 and Sections 268, 285, 379 and 511 IPC, Police Station Sampla, District Rohtak, FIR No.75 dated 29.07.2021 under Sections 15 and 16 Petroleum & Mineral Pipe Line Act, 1962, Sections 3 & 4 of PDPP Act, 1908 and Sections 268, 285, 379 and 511 IPC, Police Station Sampla, District Rohtak, FIR No.112 dated 10.04.2021 under Sections Sections 15 and 16 of the Petroleum and Mineral Pipe Line Act, 1962, Sections 3 & 4 of the Explosive Substances Act, 1908 and Sections 3 & 4 of the Prevention of Damage to the Public Property Act, 1984 and 379, 117, 411, 420, 467, 468, 471, 120-B and 34 IPC, Police Station Bawal, District Rewari, FIR No.87 dated 08.08.2021 under Sections 15, 16 Petroleum & Mineral Pipe Line Act, 1962, Sections 379/34 IPC and Section 3 of PDPP Act, 1962, Police Station Rohri, District Rewari and FIR No.264 dated 26.12.2021 under Sections 15/16 and 15(IV) of the Petroleum and Minerals Pipelines Act, 1962 and Sections 379, 34 IPC, Section 3 of the Prevention of Damage

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to Public Property Act, 1984 at Police Station Rampura, District Rewari, and, 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 28.07.2022, none of the 30 prosecution witnesses have been examined so far and in four cases of identical nature arising out of FIR No.93 dated 26.03.2021, FIR No.53 dated 22.01.2022 , FIR No.112 dated 10.04.2021 and FIR No.264 dated 26.12.2021 he had already been granted the concession of bail.

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

6. Admittedly, the petitioner is named in the disclosure statements of his co-accused. 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 28.07.2022, investigation stands completed and none of the 30 prosecution witnesses have been examined so far. In four similar cases i.e. FIR No.93 dated 26.03.2021, FIR No.53 dated 22.01.2022, FIR No.112 dated 10.04.2021 and FIR No.264 dated 26.12.2021, he has been granted the similar concession. Therefore, his further incarceration in the present case is not required, moreso as his two co-accused, namely, Deshraj @ Deshu and Sandeep @ Moni have been granted the similar concession either by this Court or Sessions Court vide order dated 17.07.2023 in CRM-M-25638-2023 and order dated 29.11.2021 passed in BA-1640-2021.

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7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Dinesh Rathi 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 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.2,00,000/- 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

August 31, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No