

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-50041-2022 (O & M)****Date of decision: 02.03.2023**

Ravi Kumar

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jasjeet Singh Dhaliwal, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

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.50 dated 30.01.2022 under Sections 120-B, 198, 420, 467, 468, 471 and 474 IPC and Section 12(1) B of the Passport Act, 1967 registered at Police Station Sadar Fatehabad.

2. The case of the prosecution is that the petitioner-Ravi Kumar @ Nonnu @ Nona had been arrested by the police of Jammu and Kashmir and during his interrogation, he disclosed that he had prepared a Passport by assigning himself a fictitious name Karan Kumar son of Surinder Kumar and by showing himself to be a resident of village Aherwan, Tehsil Ratia, District Fatehabad, had got issued a Passport from the Passport Office at Chandigarh.

Upon receipt of the said information, the aforementioned FIR came to be registered. During investigation, it transpired that the said Karan

Kumar had been identified by Satnam Singh and Harmanpreet. Satnam Singh was arrested by the police whereas Harmanpreet was declared a proclaimed offender. It was found that the address furnished by the said Karan Kumar and the person, who had verified it were incorrect. During the course of investigation, Satnam Singh disclosed that he was helped by Manish and Mandeep for procuring bogus documents. As per the prosecution case, the aforesaid persons had furnished documents like PAN Cards, detailed mark-sheet card, etc., some of which were found to be forged. It is the further case of the prosecution that upon interrogation of Manish, he disclosed the name of Tilak Raj, who was found to be Data Operator in the Passport Office whose help the accused had sought. Tilak Raj in his disclosure statement named Balwinder as an accused stating that the said Balwinder had prepared a fake detailed mark-sheet in respect of Karan Kumar in whose favour the Passport in question had been issued. Balwinder further stated that he had procured the said certificate from Balbir. Upon the arrest of Balbir, he further nominated Rajinder Thakur from who the bogus detailed mark-sheet had been procured by the aforesaid accused.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case on his own disclosure statement. Some of the persons who allegedly assisted him in procuring a fake Passport have been granted the concession of bail vide order (Annexure P-3). Since the petitioner is in custody since 11.04.2022 and none of the 19 prosecution witnesses had been examined so far, he was entitled to the grant of concession of bail, moreso, when the case is Triable by the Court of a Magistrate.

4. The learned counsel for the State, on the other hand, contends that the petitioner is a habitual offender. He is involved in three other FIRs i.e. FIR No. 71 dated 06.07.2017 under Section 25, 54, 59 of the Arms Act at Police Station Harike, Punjab, FIR No.429/2021 under Sections 13, 17 U.A. (P) Act at Police Station JIC SIA, Jammu and is convict in FIR No.67 dated 03.07.2017 under the NDPS Act registered at Police Station Harike, Punjab. Therefore, his criminal antecedents do not entitle him to the grant of bail.

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

6. Admittedly, the petitioner is in custody for almost one year. None of the 19 prosecution witnesses have been examined so far. Some of his co-accused, namely, Balbir Singh, Rajinder Thakur, Satnam Singh @ Sattu, Balvinder Singh, Munish Kumar @ Manish Kumar @ Mani and Tilak Raj have been granted the concession of bail vide order dated 06.08.2022 (Annexure P-3). In FIR No. 71 dated 06.07.2017 under Section 25, 54, 59 of the Arms Act at Police Station Harike, Punjab, the petitioner has been granted the concession of bail. In FIR No.429/2021 under Sections 13, 17 U.A. (P) Act at Police Station JIC SIA, Jammu the petitioner is stated to be in custody whereas in FIR No.67 dated 03.07.2017 under the NDPS Act registered at Police Station Harike, Punjab, the petitioner was convicted and sentenced to imprisonment. Thereafter, his sentence stands suspended. The case is triable by the Court of a Magistrate. This Court in case bearing 'CRM-M-24033- 2021(O&M) titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab Decided on 31.08.2022' has held that in cases triable by the Magistrate unless there are serious allegations of the accused absconding from trial, or tampering with the evidence, bail should only be declined in exceptional circumstances.

7. Keeping in view the afore-mentioned facts, the further incarceration of the petitioner is not required.
8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ravi Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
9. 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 other case except the cases referred to hereinabove.
10. In addition, the petitioner (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

March 02, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

