

CRM-M-50738-2023 (O & M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50738-2023 (O & M)
Date of Decision: 15.12.2023

Binder @ Virender

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gurbir Singh Sandhu, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J.

CRM-52792-2023

The application for placing on record the documents
(Annexures P-8 to P-16), is allowed as prayed. The same are taken on
record.

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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, Sections 3 and 4 of the Explosive Substances Act, 1908, Sections 3
and 4 of the Prevention of Damage to the Public Property Act, 1984 and

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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), registered at Police Station Bawal, District Rewari.

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.

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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 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 (petitioner), Suraj, Manish alias Sund were arrested in the present case. They suffered their respective disclosure statements and the name of Pawan (since granted bail vide order dated 14.07.2023 passed in CRM-M-860-2023) 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. 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

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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 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 petitioner and his co-accused, namely, Harish, Ravinder, Vijay, Suraj, Manish and Sunny on 28.04.2022.

On 28.07.2022, Dinesh Rathi (since granted bail vide order dated 31.08.2023 passed in CRM-M-41867-2023) and Narender alias Anna (since granted bail vide order dated 23.08.2023 passed in CRM-M-40159-2023) 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 (since granted bail vide order dated 17.07.2023 passed in CRM-M-20124-2023) and Pawan were arrested in the present case. They suffered their respective statements stating their involvement

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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.

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 29.01.2022 and none of the 39 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in 12 of the 17 cases registered against him, 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 17 other cases and therefore, his criminal

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antecedents did not entitle him to the grant of bail. He, however, concedes the fact that the petitioner was in custody since 29.01.2022, none of the 39 prosecution witnesses had been examined so far and in 12 of the 17 other cases registered against him, he had already been granted the concession of bail.

5. I have heard the learned counsel for the parties.
6. Admittedly, out of the 17 other cases registered against the petitioner-Binder @ Virender, in 12 cases he has been granted the concession of bail. The details thereof are as under:-

Sr. no.	Case/FIR Details	Sections	Status
1.	FIR No.23 dated 22.01.2022, Sampla (Rohtak)	268, 285, 286, 379 and 15/16 of the Petroleum Act	On Bail
2.	FIR No.453/2022, Police Station Asaudha (Jhajjar)	285, 34, 394, 511 IPC, 3/4 of the Explosive Act	On Bail
3.	FIR No.127/2021, PS Machhrauli, District Jhajjar	268, 285, 379, 34 IPC, 15/16 of the Petroleum Act, 3/4 of the Explosive Act	On Bail
4.	FIR No.470/2021, Police Station Kharkhoda, District Sonapat	285, 379, 34 IPC, 3/4 of the Explosive Act, 3/4 of the PDPP Act	On Bail
5.	FIR No.603/20.12.20 Police Station Kharkhoda, District Sonapat, Haryana	285, 379, 34, 427 IPC, 15/16 of the Petroleum Act, 3/4 of the Explosive Act, 3/4 of PDPP Act	On Bail
6.	FIR No.92/2021 Police Station Badli, (Jhajjar)	268, 285, 286, 379, 511 IPC, 15/16 Petroleum Act and 3/4 of PDPP Act	On Bail
7.	FIR No.590/2020, Police Station Kharkhoda, District Sonipat	285, 379, 34 IPC, 15/16 of Petroleum Act and 3/4 of the PDPP Act	On Bail

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8.	FIR No.162/2021, Police Station Sampla (Rohtak)	268, 285, 286, 379 IPC, 15/16 Petrol and Pipeline Act and Section 23 of Petroleum Act and 3/4 PDPP Act and 6/4 of Explosive Act	On Bail
9.	FIR No.284/2021 Police Station Rampura (Rewari)	379, 411, 117, 120- B, 34 IPC, Sections 15/16 of the Petroleum Act, 3/4 of PDPP Act	On Bail
10.	FIR No.264/2021 Police Station Rampura (Rewari)	379, 413, 34, 117, 411, 420, 467, 468, 471, 120-B IPC, 15/16 of the Petrleum Act, 3/4 of the Explosive Act	On Bail
11.	496/2015, Police Station Kundli (Sonipat)	323, 341, 506, 34 IPC	On Bail
12.	FIR No.112/2021	379, 411, 117, 120- B, 34 IPC, 15/16 of the Petroleum Act, 3/4 of the Explosive Act	Next date of hearing in Sessions Court on 09.01.2024
13.	FIR No.84/2021	379, 411, 117, 34 IPC, 15/16 of the Petroleum Act, 3/4 of the Explosive Act	Next date of hearing in Sessions Court on 10.01.2024
14.	FIR No.350/2021, Police Station Jhajjar (Jhajjar)	379, 511, 285, 286, 268, 120-B IPC, 15 of the Petroleum Act, 4 of the PDPP Act	Next date of hearing ----
15.	FIR No.450/2021	285, 379, 511, 34 IPC	Next date of hearing ---
16.	FIR No.450/2022, Police Station Assaudha (Jhajjar)	285, 379, 511,34 IPC	Next date of hearing---
17.	FIR No.341/2016, Alipur	394, 397, 307, 411, 34 IPC	On Bail

7. Further, the petitioner is named in the disclosure statements of his co-accused. Whether the other evidence available against the

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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 29.01.2022, the investigation stands completed and none of the 39 prosecution witnesses have been examined so far. Therefore, the trial of the case is not likely to be concluded anytime soon. In this situation, his further incarceration in the present case is not required, moreso as his six co-accused, namely, Pawan, Nakul Bedi, Deshraj @ Deshu, Narender @ Rinku @Anna, Dinesh Rathi and Sandeep @ Moni have been granted the similar concession either by this Court vide orders dated 14.07.2023, 17.07.2023, 23.08.2023, 31.08.2023 (Annexures P-2 to P-6 respectively) or Sessions Court vide order dated 29.11.2021 passed in BA-1640-2021).

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Binder @ Virender 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.

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 case/crime other than the case(s) mentioned in this order

10. 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

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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

December 15, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No