

2023:PHHC:154107
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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228+232 CRM-M-41862-2023
Binod Kamal SahiPetitioner
Vs.
State of PunjabRespondent

CRM-M-51248-2023
Sukhvir Sunar @ Rahul @ Sukhveer KamiPetitioner
Vs.
State of PunjabRespondent

Date of Decision.:04.12.2023

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sandeep Kumar Yadav, Advocate for
the petitioner in CRM-M-41862-2023.

Mr. Prateek Pandit, Advocate for
the petitioner in CRM-M-51248-2023.

Mr. M.S. Nagra, AAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

The petitioners are seeking regular bail by way of petition filed under Section 439 Cr.P.C in case FIR No.111 dated 15.06.2023 registered at Police Station City Phagwara, District Kapurthala. The petitioner Binod Kamal Sahi in petition bearing No.CRM-M-41862-2023 seeks bail under Sections 381, 328 of the IPC (Sections 411, 120-B of the IPC & Section 25

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of Arms Act added later on) whereas petitioner Sukhvir Sunar @ Rahul @ Sukhveer Kami in petition bearing No.CRM-M-51248-2023 seeks bail under Sections 380, 381, 382, 328, 411, 457, 120-B of the IPC and Section 25 of Arms Act.

2. As per the prosecution allegations, FIR was lodged on the statement of one Ravinder Kaur Walia, as per which their servant Raju, after administering some intoxicant substance, had taken away all the valuable articles including cash, gold etc. on the night intervening 14/15.06.2023. During investigation, on the basis of secret information the two petitioners along with others were arrested. Recovery of ₹50,000/- along with revolver of .32 bore was effected from petitioner Sukhvir Sunar; whereas an amount of ₹3,15,000/- was recovered from the petitioner Binod Kamal Sahi. Section 25 of the Arms Act was also added.

3. Contention of learned counsel for the petitioners is that petitioners are in custody for the last approximately 05 months; that they have no criminal antecedents; that at the most Section 411 of the IPC is attracted. It is further contended that since the pistol as is allegedly recovered from the petitioner Sukhvir Sunar, belonged to the complainant and was a licensed pistol, so offence under Section 411 of the IPC will be attracted and not Section 25 of the Arms Act. Learned counsel further contends that the main accused Raju, as named in the FIR and who is attributed to have administered intoxicating substance to the complainant/his family members, has not been arrested so far.

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4. Status report by way of an affidavit of Shri Jaspreet Singh, PPS, Deputy Superintendent of Police, Sub-Division Phagwara, Kapurthala has been filed by respondent- State in CRM-M-41862-2023.

5. Learned State counsel has made a statement that the said reply can also be considered in connected petition bearing No.CRM-M-51248-2023.

6. Learned State counsel has pointed out towards the attribution to both the petitioners and nature of crime and has prayed for rejecting the bail petition. However, it is conceded that main accused Raju named in the FIR, against whom the allegations are of administering intoxicating substance to the complainant/family members and who committed theft of gold, cash etc., has not been arrested so far.

7. Since, the petitioners are not alleged to have participated in the theft and the role attributed to them is the recovery of allegedly stolen articles, therefore, the case of the petitioners will prima facie fall under Section 411 of the IPC only. Besides, the custody certificate qua both the petitioners placed on record by learned State counsel reveal that they have no criminal antecedents. Custody certificate also reveals that petitioners are in custody for the last 04 months and 29 days. Trial is likely to take time to conclude.

8. Having regard to the above facts and circumstances, but without commenting anything further on the merits of the case, both the petitions are allowed and petitioners are admitted to bail on their furnishing bail

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bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty
Magistrate concerned, on usual terms and conditions.

A photocopy of this order be placed on the connected case file.

December 04, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No