

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-57824-2022 (O&M)

Harpal Singh ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-2027-2023 (O&M)

Sandeep Kumar ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-23.2.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurjeet Singh Kaura, Advocate,
for the petitioner in CRM-M-57824-2022.

Mr. Himanshu Sharma, Advocate,
for the petitioner in CRM-M-2027-2023.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by Inspector Rajpal Kaur.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Harpal Singh and Sandeep Kumar seeking grant of regular bail in respect of a case registered vide FIR No.08, dated 8.6.2022 at Police

Station Vigilance Bureau Phase-1, Mohali, District SAS Nagar, Mohali, under Sections 409, 420, 465, 467, 468, 471, 120-B of Indian Penal Code and Sections 7, 7(a), 13(1)(a), 13 read with Section 13(2) of Prevention of Corruption Act, 1988.

2. The allegations, in nutshell, are that petitioner - Harpal Singh (in CRM-M-57824-2022) was posted as Data Operator at Checkpost (Tax Collection Center) RTA Centre, Jharmari Lalru, SAS Nagar, wherein he was assigned the duties of collecting State Tax from commercial vehicles entering State of Punjab. It is the case of prosecution that pursuant to receipt of secret information that fabricated receipts were being issued at Checkpost (Tax Collection Center) RTA Centre, Jharmari Lalru, SAS Nagar and that the amount collected as State Tax was being embezzled, a raid was conducted at the said checkpost and receipts being issued were checked and it was found that a duplicate software was being used for the purpose of issuance of receipts and that majority of the amount collected as State Tax was not being recorded in the original software. The said computer (CPU) was taken into possession by the police and was sent for examination to State Cyber Crime Cell, which reported that a fake software was being used in the computer, wherein entries were being made at the checkpost in question. It is further the case of prosecution that upon arrest of petitioner - Harpal Singh, he was interrogated who disclosed that during the course of his duties he had come across a tax receipt issued in State of Haryana and upon verification of the same, he found that the same was not a genuine receipt and when he asked the driver of vehicle about the same, he disclosed that the same had been issued to him at Shahabad, Markanda by Sandeep Kumar (petitioner in

CRM-M-2027-2023). The petitioner - Harpal Singh further disclosed that thereafter he contacted said Sandeep Kumar and who admitted that he was using a duplicate software and agreed to provide the same to Harpal Singh and thereafter Harpal Singh started using the same and had been collecting the State Tax and usurping the same while issuing fake receipts to the drivers/transporters with the help of said duplicate/fake software.

3. Reply by way of affidavit of Shir Barinder Singh, PPS, Deputy Superintendent of Police, Vigilance Bureau, Flying Squad 1, Punjab at Mohali has been filed by learned State counsel in CRM-M-57824-2022, which is taken on record.
4. Learned counsel for the petitioners submitted that the petitioners have falsely been implicated in the present case and that there is no evidence to substantiate that it is the petitioners, who had themselves developed or were using the software in question on their own accord and that as a matter of fact they were using the software, which had been provided to them by the State Authorities.
5. Opposing the petitions, learned State counsel submits that since huge amount collected by the petitioners is unaccounted, their complicity is clearly evident particularly in view of the report of FSL as per which the software being used by the petitioners was not the genuine software and was a fake software with the help of which fake receipts were being issued after collecting State Tax. Learned State counsel has, however, informed that the petitioners as on date have been behind bars since the last about 8 months. It has also been informed that while petitioner – Harpal Singh is not involved in any other case, petitioner – Sandeep Kumar happens to be involved in one more case

for offence punishable under Section 304-A of Indian Penal Code. Learned State counsel has further informed that although challan stands presented but charges are yet to be framed and as many as 29 PWs have been cited.

6. This Court has considered the rival submissions addressed before this Court.
7. It is correct that the police during the course of investigation has been able to collect sufficient evidence against the petitioners to nail their guilt. However, at the same time the said evidence is yet to be led before the Trial Court where the authenticity of same would be tried and tested. In any case, the petitioners have been behind bars for a substantial period of about 8 months. Conclusion of trial is likely to consume time inasmuch as not even a single PW out of the cited 29 PWs has been examined till date. In these circumstances, further detention of the petitioners will not serve any useful purpose. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. A copy of this order be placed on the file of connected case.

23.2.2023

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No