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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 15.12.2023

(I) CRM-M-57018-2023

HARISH @ MISTRI

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

(II) CRM-M-57160-2023

SURAJ KUMAR @ SURAJ

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Diksha, Advocate
for the petitioner(s).

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. Both the petitions are taken up together for final disposal with the consent of learned counsel for the parties since both the petitions arise out of the same FIR and the prayer in both the cases is for the grant of regular bail.
2. Both the petitions have been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioners in FIR No.264

dated 26.12.2021, under Section 15 of the Petroleum and Mineral Pipeline (Acquisition of Rights of user in L.D.) Act 1962; Sections 3 and 4 of the Explosive Substance Act, 1908; Sections 379, 34 of the IPC and Sections 3, 4 of the Prevention of Damage to Public Property Act, 1984 (later on Sections 117, 120-B, 413, 411, 420, 467, 468, 471 of the IPC and Sections 15(IV), 16 of the Petroleum and Mineral Pipe Line Act 2021 were added in challan), registered at Police Station Rampura, District Rewari, Haryana.

3. Learned counsel for the petitioners submitted that both the petitioners are in custody for more than 1 year and 10 months and in the present case, the allegations pertain to an information received by the police with regard to theft of oil from pipeline belonging to the Hindustan Petroleum. When the police reached the spot, they found two valves of two inches and one valve of one inch and there was theft of oil from the pipes. She further submitted that the FIR was registered against unknown persons and thereafter, the names of both the petitioners were nominated. She also submitted that not only the petitioner but many other co-accused were arraigned in the FIR on the basis of suspicion and the other co-accused, namely, Nakul Bedi, Pawan, Indraj, Mukesh Kumar, Deshraj @ Deshu, Gopal Krishan and Dinesh Rathi have already been extended the benefit of regular bail by a Coordinate Bench of this Court and also by this Court vide Annexures P-2 to P-8. She further submitted that both the petitioners although are at parity with the aforesaid co-accused, who have been extended the benefit of regular bail as aforesaid but even otherwise also, the total custody of both the petitioners is more than 1 year and 10 months and even charges have

not been framed till date and therefore, the petitioners may be considered for grant of regular bail.

4. On the other hand, Mr. Vishal Kashyap, DAG, Haryana submitted that it is correct that both the petitioners are in custody for more than 1 year and 10 months and till date charges have not been framed. He further submitted that it is also correct that the other co-accused as aforesaid have been extended the benefit of regular bail by a Coordinate Bench of this Court and by this Court. He has however submitted that so far as the petitioners are concerned, they are involved in 30 cases of similar nature and therefore, do not deserve the concession of regular bail.

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

6. The petitioners have already faced incarceration for more than 1 year and 10 months. As per the learned counsel for the parties, even charges have not been framed till date. The FIR was lodged against unknown persons and thereafter, the names of both the petitioners and the other co-accused were nominated. However, other co-accused have already been extended the benefit of regular bail as aforesaid vide Annexures P-2 to P-8. Considering the custody of the petitioners to be more than 1 year and 10 months, this Court is of the view that the pendency of other cases against the petitioners cannot become a ground for denial of bail to the petitioners.

7. Consequently, both the petitions are allowed. The petitioners shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petitions only.

15.12.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No