

2023:PHHC:161523

CRM-M-61850-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-61850-2023 (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.

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.87 dated 18.08.2021 under Section 15, 16 and 15(IV) of the Petroleum and Mineral Pipeline (Acquisition of Rights of user in L.D.) Act, 1962, 3/4 of the Explosive Substances Act, 1908 and Sections 379 and 511 of the IPC and Sections 3/4 of Explosive Act and 3/4 of PDPP Act, 1994, registered at Police Station Rohadai, District Rewari.

2. The brief facts of the case are that on 18.08.2021, Sunil Kumar, Patrolling Man, saw in the morning at about 10.30 a.m., that on Pipeline No. CH 217.800 in village Rohdai, there was some loose soil. Upon suspicion, Sunil Kumar tried to insert a metal rod into the loose soil and the rod got inserted into the soil easily. When he tried to dig out the

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soil, he found that on the IOCL pipeline there were two valves fitted. From his mobile No. 9671402766 information was given to the IOCL mail line officer i.e. to the complainant-Sachin Yadav on his mobile No. 88827-21571. Upon receiving the information, Sachin Yadav transmitted the same to the IOCL higher officers and reached at the spot. Upon checking, it was found that two valves had been fitted on the SMPL line. Some unknown persons were found to have committed theft of oil through the IOCL pipeline.

During the course of investigation, the Superintendent of Police, Rewari constituted an SIT. FIR No. 112 dated 10.04.2021, Police Station Bawal was found to have been registered against Ravi, Harish, Ravinder @ Bablu, Vijay @ Ajay, Binder (petitioner), Suraj, Manish alongwith Anil @ Sonu (since granted bail vide order dated 19.10.2023 passed in CRM-M-41808-2023) and they had been arrested in the said case. They had suffered their respective disclosure statements admitting their involvement in the commission of the present crime as well and stated that the equipment used in the commission of the offence had already been recovered by the police during the course of investigation of FIR No.112 dated 10.04.2021. Accused were taken on production warrants and were joined in investigation. They were arrested on 14.02.2022 in the instant case.

Anil @ Sonu was found to be the driver of the oil tanker which was used to transport the stolen oil. The said tanker had been recovered

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from him during the course of investigation of FIR No.112 dated 10.04.2021. It had also transpired that he had been instrumental in digging up the place of theft at the pipeline site to facilitate the commission of theft of oil, and therefore, had actively participated in the commission of the crime.

During the course of further investigation, accused Dinesh Rathi was joined in investigation and admitted his involvement in the commission of the present offence. Co-accused Sunil @ Banda was arrested in connection with the investigation of FIR No.75/2021 registered at Police Station Rohrai and during the course of investigation, admitted his involvement in the present offence as well. The final reports in the present case were filed qua the arrested accused on 13.05.2022, 17.10.2022 and 17.04.2023. However, the final report qua the arrested accused Mohit @ Motta and Brijesh @ Julfi is yet to be filed.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but had been falsely implicated on the basis of his own disclosure statement got recorded when he was arrested in FIR No. 112 dated 10.04.2021. The said disclosure statements has no evidentiary value in the eyes of law. As the petitioner was in custody since 14.02.2022 and only 03 of the 24 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in 12 of the 17 other cases registered against him, he had

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already been granted the concession of bail and a co-accused, namely, Anil @ Sonu has been granted the similar relief.

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 registered against him and therefore, his criminal antecedents did not entitle him to the grant of bail. He, however, concedes the fact that the petitioner is in custody since 14.02.2022, only 03 out of the 24 prosecution witnesses had been examined so far and in 12 of the 17 pending cases, the petitioner had 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	285, 379, 34, 427	On Bail

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	Police Station Kharkhoda, District Sonapat, Haryana	IPC, 15/16 of the Petroleum Act, 3/4 of the Explosive Act, 3/4 of PDPP Act	
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
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 ----

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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 has been inculpated on the basis of his own disclosure statements and that of his co-accused suffered in FIR No.112 dated 10.04.2021. Whether the other evidence available against the 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 14.02.2022, the investigation stands completed and only 03 of the 24 prosecution witnesses have been examined so far. Thus, the trial in the present case is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not warranted, moreso, when in 12 of the 17 cases, he has been granted the concession of bail and a co-accused, namely, Anil @ Sonu, has been granted the similar relief vide order dated 19.10.2023 (Annexure P-2).

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

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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 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