

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-5655-2024

Date of Decision:-07.03.2024

Sukhwinder Kumar.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sandeep Singh Jattan, Advocate for the Petitioner.

Mr. Deepinder Singh Brar, Senior Deputy Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.114 dated 07.08.2023 under Sections 181, 419, 420, 466, 468, 471, 474 and 120-B IPC registered at Police Station Division No.4 (Lahori Gate), District Patiala.

2. The present FIR came to be registered at the instance of Sh. Rahul Dhingra, Reader in the Court of Mr. Palwinder Singh Civil Judge(Jr. Divn.)-cum-JMIC, Patiala which reads as under:-

“ At this time one letter No. 244-A Dated 18.07.2023 from Sh. Rahul Dhingra reader Hon'ble Court of Sh. Palwinder Singh, Civil Judge (JD)- cum-JMIC, Patiala against 1.) Preet Surinder Singh son of Sh. Tej Mohan Singh, R/o H. No. 83, New Mehar Singh Colony, Patiala. (accused) 78558- 06686 2.) Jaspal Singh son of Sh. Sajan Singh, R/o Village Samla, Tehsil Nabha, District Patiala (surety) 3) Manavroop Kaushal s/o Rupjit Kaushal, R/o #1-D- Hira Nagar, Near 22 No. Phatak, Patiala (witness) 4).

Rakesh son of Meena Ram, R/o H. No. 95, St. No.2, Guru Nanak Nagar, Patiala (witness) 5) Any other responsible/involve vide registering case against the aforementioned under sections 181, 419, 420, 466, 468, 471, 474 and 120-B IPC vide post has been received in the police station, the contents of which are as follows:," No. 244-A, Dated 18/7/23 from Palwinder Singh, Civil Judge (JD)-cum-JMIC, Patiala. To, SHO Lahori Gate, Patiala Subject: Registration of cases U/S 181, 419, 420, 466, 468, 471, 474 and 120-B of the Indian Penal Code against: 1.) Preet Surinder Singh son of Sh. Tej Mohan Singh, R/o H. No. 83, New Mehar Singh Colony, Patiala. (accused) 78558-06686 2.) Jaspal Singh son of Sh. Sajan Singh, R/o Village Samla, Tehsil Nabha, District Patiala (surety) 3) Manavroop Kaushal s/o Rupjit Kaushal, R/o #1-D- Hira Nagar, Near 22 No. Phatak, Patiala (witness) 4). Rakesh son of Meena Ram, R/o H. No. 95, St. No.2, Guru Nanak Nagar, Patiala (witness) 5) Any other responsible/involve. Memo: Whereas in complaint No. 1346/2019 filed under Section 138 of the Negotiable Instruments Act against accused Preet Surinder Singh Titled as "Jagjit Singh vs Preet Surinder Singh", accused Preet Surinder Singh was summoned vide order dated 01.06.2019. On 18.04.2023 accused Surrendered before the Court who was admitted to bail with sum of Rs.50,000/- Mr. Jaspal Singh son of Sajan Singh R/o Village Samla Tehsil Nabha District Patiala stood as surety of the accused whereas Manavroop Kaushal s/o Rupjit Kaushal R/o #1-D, Hira Nagar, near 22 No. Phatak, Patiala and Rakesh son of Meena R/o H.No. 95, St. No.2, Guru Nanak Nagar, Patiala where stood as witness. In support of the surety bonds, surety Jaspal Singh filed duly sworn affidavit along-with report from the office of concerned Tehsildar Nabha dated 18.04.2023, copy of Jamabandi for the year 2019-2020 of his alleged land situated at Village, Samla, Hadbast No. 158, Tehsil Nabha, District Patiala. The aforesaid persons also produced the photocopiers of their Aadhar Cards and copy of official identity card of the witness Manavroop Kaushal. However, as per report No. 2762/D.K. dated 31.05.2023 of the Tehsildar Nabha, it has been reported that there is no land in the name of surety Mr. Jaspal Singh son of Sajan Singh, R/o Village Samla, Tehsil Nabha, District Patiala as shown in aforesaid Jamabandi of the year 2019-2020 whereas the

mutation of land has already been sanctioned in favour of Asmanjeet Singh son of Jaspal Singh vide order dated 03.01.2021. In this way, accused Preet Surinder Singh with criminal conspiracy of alleged surety Jaspal Singh. alleged witnesses Manavroop Kaushal and Rakesh furnished the fake surety with forged documents and committed offence U/S 181, 419, 420, 466, 468, 471, 474 and 120-B of the Indian Penal Code and therefore, a direction is hereby issued to register a case against them under intimation to this Court and conduct Investigation. Further Sh. Rahul Dhingra Readr of this Court is authorized to make complaint as required U/S 195(1)(A)(i) of the Code of Criminal Procedure against the accused persons. Copies of complaint No. 1346/2019 as Annexure-A1, forged documents ie. Surety Bonds as Annexure-A2, False affidavit as Annexure-A3, forged report of Patwari dated 18.04.2023 as Annexure-A4, copy of Jamabandi for the year 2019- 2020 as Annexure-AS, Aadhar Card of surety Jaspal Singh as Annexure-A6, Identity Card of witness Manavroop Kaushal as Annexure-A7, Aadhar card of witness Manavroop Kaushal as Annexure-A8, Aadhar card of witness Rakesh as Annexure-A9 and report of office of Tehsildar Nabha No. 2762/D.K. Dated 31.5.2023 as Annexure-A10, are attached herewith. SD/- Palwinder Singh, civil Judge (JD)-cum-JMIC, Patiala. (UID No. PB0413) on which the case/FIR No. above against the aforementioned accused persons namely Surinder Singh, Jaspal Singh, Manavroop Kaushal, Rakesh mentioned above was registered and record was completed by MHC. In- charge control room Patiala is being informed. Copies of the FIR's are being sent to the Ilaqa Magistrate and other higher officials through post. Original letter/application, inquiry report and case File is being handed over to S.I. Raghbir Singh 3059. Vide DDR No. 24 Time: 11:58AM."

3. Pursuant t the registration of the FIR Preet Surinder Singh was arrested and during investigation he revealed that it was the petitioner-Sukhwinder Kumar who had arranged the surety and had demanded Rs.25,000/- which had been paid to him. It was the petitioner who had

arranged the sureties Jaspal Singh, Manavroop and Rakesh Kumar and

provided false and fictitious persons and forged documents i.e. jamabandi, Aadhaar Card etc.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact he has not been named in the FIR but has been named in disclosure statement of the co-accused. It was the other accused, who had brought fictitious papers showing themselves to be the owners of land and not the petitioner. As the report under Section 173(2) Cr.PC stood submitted, the petitioner was a first time offender, in custody since 04.11.2023 but none of the 09 PWs have been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail, moreso when the case was triable by the court of a Magistrate.

4. The learned State counsel on the other hand has filed a Status report/reply by way of affidavit dated 05.03.2024 of Mr. Sanjeev Singla, Deputy Superintendent of Police, City-1, Patiala in the court today, which is taken on record. While referring to the reply he contends that it was the petitioner who had provided fake sureties along with forged documents. Therefore, in a sense it was the petitioner who was the main accused. He however concedes that the petitioner was a first time offender, in custody since 04.11.2023 and that none of the 09 Pws had been examined so far.

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

6. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is

complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the trial. Admittedly, the petitioner is a first time offender, stated to be in custody since 04.11.2023 and none of the 09 prosecution witnesses have been examined so far. Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses if he is granted the concession of regular bail. Therefore, his further incarceration is not required.
8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sukhwinder Kumar** son of Sh. Om Parkash is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 07, 2024
Vinay

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