



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.12871 of 2024 (O&M)
Date of decision: 17.05.2024

Deepu Kumar @ Deep
....Petitioner
Versus
State of Punjab
....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Prashant Vashisth, Advocate
for the petitioner.
Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR J. (Oral)

1. Prayer in this 1st petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.137 dated 14.09.2022, registered under Sections 399/402 IPC read with Sections 25/54/59 of the Arms Act, 1959, at Police Station Division No.3, Ludhiana Police Commissionerate.
2. Learned counsel for the petitioner submits that as per the allegations, the FIR was registered on the basis of a secret information to the effect that Jacob @ Vishal Gill, Deepu Kumar @ Deep (petitioner herein), Jatin Bains @ Nanna, Naveen Masih and Jatin Monga @ Trendy, are habitual of committing snatching. On 14.09.2022, they were all sitting at Kacha Path and were armed with deadly weapons. As per the said report, they were planning to commit dacoity in some financial

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institution or factory and if a raid was conducted, they could be apprehended. On getting the information, the FIR was registered and a raid was conducted and thereafter, the petitioner was arrested on 14.09.2022.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that the petitioner is no more required for further investigation. He further contends that the petitioner is in custody for the last 01 year, 07 months and 29 days.

4. Learned counsel for the petitioner further submits that the co-accused namely Vishal Gill @ Vishal Jacob and Jatin Bains @ Nanna, have already been released on regular bail by this Court vide orders dated 13.12.2023 and 18.01.2024, passed in CRM-M No.45707 of 2023 and CRM-M No.1469 of 2024, respectively. He further contends that another co-accused namely Jatin Moga @ Jatin Monga @ Trendi, has also been granted the concession of regular bail vide order of even date passed in CRM-M No.136 of 2024. Lastly, he submits that the investigation in the present case is complete as challan stands presented, however, charges are yet to be framed and there are total 10 prosecution witnesses, who are yet to be examined and the trial is likely to take considerable time to conclude and, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

5. Per contra, learned State counsel while placing on record the custody certificate dated 16.05.2024, has opposed the prayer for

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grant of regular bail to the petitioner on the ground that the petitioner is involved in some other cases also and, therefore, he does not deserve the concession of regular bail.

6. Refuting the above contention of the learned State counsel, learned counsel for the petitioner submits that apart from the present FIR, the petitioner is involved in 02 more FIRs, however, he stands acquitted in one FIR No.261 dated 16.11.2020, registered under Sections 307, 341, 323, 325, 506, 201, 34 IPC at Police Station Moti Nagar, Ludhiana. He further relies upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another”***, 2012 (2) SCC 382, to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

7. I have heard learned counsel for the parties and perused the record.

8. Without commenting anything on merits of the case and considering the fact that the co-accused of the petitioner have already been granted the concession of regular bail as mentioned above, and the

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fact that the petitioner is in custody for the last 01 year, 07 months and 29 days; investigation is complete; challan stands presented; charges have not been framed and there are total 10 prosecution witnesses, who are yet to be examined and the trial is likely to take considerable time to conclude, this petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of

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change of place of residence/mobile number, he shall share the details with the concerned Court/learned trial Court.

(vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday of English calendar month before the concerned SHO till the conclusion of the trial and the SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move an application for cancellation of bail of the petitioner.

(NAMIT KUMAR)
JUDGE

17.05.2024

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No