

2024.PHHC.113011



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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-16484-2024 (O&M)

Date of decision: 31.08.2024

Parveen Kumar

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Fatehjeet Singh, Advocate, for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

GURBIR SINGH, J.

CRM-23570-2024

This is an application to place on record orders as Annexures
P-6 to P-11.

For the reasons mentioned in the application, same is allowed
and documents Annexures P-6 to P-11 are taken on record subject to all just
exceptions.

CRM-16484-2024

1. This petition has been filed under Section 439 of Cr.P.C. for
grant of regular bail to the petitioner in case FIR No.540, dated 20.10.2014,
registered under Section 135 of Electricity Act, 2003, at Police Station Anti
Power Theft, District Jalandhar.

2. The allegation against the petitioner is that on 17.06.2014 while checking the premises of accused-petitioner (at Deol Nagar, near Water Works, Jalandhar), he was found committing theft of electricity by putting a wire directly in the main supply. FIR was got registered, however, during investigation, on 11.05.2015, he was again found committing theft of electricity in the same way. Though efforts were made to arrest him but he could not be arrested. Various notices under Section 41-A of Cr.P.C. were issued to him. Challan in the court was presented in his absence. Ultimately, he was arrested on 08.02.2024.

2.1 For 10 years, he evaded his arrest. He also filed pre-arrest application No.873 of 2021, but it was dismissed by learned Sessions Judge, Jalandhar vide order dated 04.03.2021. He moved to this Court as well for grant of bail, but he withdrew his petition.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present FIR. The petitioner has been made a scapegoat at the hands of Shiv Kumar, ASI and Vikramjit Singh, Constable. They are harassing the petitioner and his family members. Petitioner also earlier filed CRWP No.9626 of 2023 before this Court for issuance of direction to official respondents to protect his life and liberty and his family members, at the hands of Shiv Kumar, ASI and Vikramjit Singh, Constable, arrayed as respondents No.5 and 6 respectively in that petition. In the said petition, it was pleaded that on 19.07.2023 at about 7.55 PM, the petitioner was present on the road of his house in Buta Mandi, Jalandhar. Respondents No.5 and 6 along with other police

officials, who were in civil uniform, came outside his house in a private car, and without assigning any reason, forcibly made the petitioner to sit in the car. His both legs were out of the car. They drove the car and the rear door of the car was opened. The car hit other vehicles twice and due to which, bones of the petitioner's left foot were broken. Said ASI Shiv Kumar stopped the car and other employees forcibly put petitioner's legs inside the car. Upon making loud noise by the petitioner, people gathered there. These police officials were in drunken state and when the people asked them the reason, they could not give any reply. So, said police officials released the petitioner by giving him threat that they would handle him some other manner. It has also been submitted that while putting the petitioner in the car, said police officials had taken Rs.12,700/- cash from his pocket, two mobile phones and gold chain. Though ASI Shiv Kumar returned two mobile phones but the cash and gold chain were not returned. The entire incident was recorded in CCTV cameras and mobile phones of the residents. Petitioner also filed representations dated 27.07.2023 (Annexures P-2 and P-4) before the Commissioner of Police, Jalandhar and Director General of Police, Punjab, but to no avail.

3.1 Learned counsel for the petitioner has further argued that the petitioner is a resident of Boota Mandi, Jalandhar for the last many years. Petitioner never resided in the area of Deol Nagar, Jalandhar, at the time of alleged occurrence. He was having a dispute with the owner of House No.251/18, Deol Nagar, Jalandhar and some notice was issued at House

No.253/18, Deol Nagar, Jalandhar. There is delay of more than four months in lodging the FIR, as the alleged offence was committed on 17.06.2014 whereas the FIR was registered on 20.10.2014. Petitioner is in custody since 08.02.2024. Though some cases have been registered against the petitioner, but in those cases, either he has been acquitted or is on bail. In the instant case, challan has been presented. Conclusion of trial will take long time. No useful purpose would be served by further incarceration of the petitioner.

3.2 At this stage, learned counsel for the petitioner submits that CRWP No.9626 of 2023 has been withdrawn by the petitioner vide order dated 07.08.2024 on the ground that the Commissioner of Police, Jalandhar assured protection to the petitioner.

4. Status report by way of affidavit of Kewal Kishore, PPS, Deputy Superintendent of Police, Vigilance & Security, PSPCL, Jalandhar, on behalf of respondent No.1, has already been filed in the case. On the strength of said report, learned State counsel has opposed the bail to the petitioner by contending that he is a habitual offender and he is involved in eight more cases. He is arrested in this case after about 10 years and if he is released on bail, he can flee away.

5. I have heard the submissions of learned counsel for the petitioner, learned State counsel and have gone through the file.

6. Considering the fact that the petitioner is in custody since 08.02.2024; in other cases registered against him, either he has been

acquitted or on bail or pending trial; culpability of the petitioner in the present case would be determined during trial; and completion of trial will take some time; rule is bail and not jail, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing personal bond with two surety bonds of the same amount to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that he shall get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

August 31, 2024
sanjeev

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