

CRM-M-19276-2024

2024:PHHC:059712
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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-19276-2024
Date of Decision : May 01, 2024

HARISH @ HARISH KUMAR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. S.K.Virk, Advocate for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition filed under Section 439 Cr.P.C. the petitioner prays for grant of regular bail in case FIR No.59 dated 28.10.2023, Under Sections 341, 362, 363, 506, 34 IPC and under Sections 111, 112, 135 of the Customs Act and added later Sections 364, 342, 120-B IPC, registered at Police Station Airport Amritsar, District Amritsar.

2. The instant FIR has been registered on a secret information received by SHO P.S. Airport Amritsar City, wherein, it was alleged that some persons had forcibly kidnapped one person outside the Radisson Hotel, and put him in a Tata Safari Car, bearing No. CH04A-8825, and one Polo car was also accompanying them, and if they are chased immediately, then the kidnapped person can be saved. Believing this information to be true, a police party was constituted, and thereupon, the vehicle was waylaid. However, the person, who was occupying the Polo car, managed to flee from the spot. Thereupon, the name of the person was disclosed by the occupants of the Tata Safari Car and the kidnapped person, namely, Kuldeep Singh was rescued from the clutches of the accused persons. During investigation, it transpires that one Jaspreet

Singh, son of allegedly kidnapped Kuldeep Singh, is indulging in the business of smuggling of gold from Dubai to India, and said Jaspreet Singh was apprehended from T-Point at Airport Amritsar, wherein, he disclosed that Amritpal Singh, who is a resident of Dubai, has given paste of gold to him, as well as to Akashdeep Singh, to be smuggled into India from Dubai. The 599 gms of gold paste was recovered from co-accused Akashdeep Singh thereupon, offences under Sections 111/112 and 135 of the Customs Act, were also added and Amritpal Singh was also nominated as co-accused vide GDR No. 50, dated 28.10.2023.

3. On the asking for the relief of regular bail, the learned counsel for the petitioner submits that the main occurrence whatsoever, of kidnapping never happened, and so far as the smuggling of the gold is concerned, he has no concern with the same, as the allegations are levelled against Jaspreet Singh, Amritpal Singh and Akashdeep Singh, who are the non-applicants. He further submits that infact Kuldeep Singh, was never kidnapped. He also placed reliance upon Annexure P-3, vide which five accused persons have been granted the relief of regular bail. He further submits that the present petitioner is on co-equal pedestal with all five persons, who have been granted the relief of regular bail. He further submits that the present petitioner has suffered incarceration of more than six months as on today.

4. Per contra, the learned State counsel though has opposed the grant of regular bail to the petitioner, however, admitted the fact that there is no allegation against the present petitioner, for smuggling of gold from Dubai. The only allegation against the petitioner is that he is involved in kidnapping of Kuldeep Singh. He also placed on record the custody certificate, which reflects that the petitioner has suffered incarceration of 6 months and 2 days as on today. He further submits on instructions that the final report was submitted way back on 27.12.2023, but the charges have not been yet framed and in the final report, the prosecution has cited 13 witnesses.

5. Be that as it may, since the issue regarding the kidnapping of Kuldeep Singh, is under dispute, as in the earlier petitions, learned counsel for Kuldeep Singh has submitted that he was never kidnapped, and rather a false story has been cooked up by the prosecution and considering the fact that the present petitioner is on same pedestal as of other co-accused and has suffered incarceration of 6 months and 2 days, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.
6. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.
7. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 01, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No