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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : May 28, 2024

JASPREET SINGH -PETITIONER

V/S

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. G.S. Bawa, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

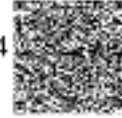
KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner craves for indulgence of this Court for him being enlarged on regular bail, in case FIR No.59 dated 28.10.2023, under Sections 341, 362, 363, 506, 34 of the IPC (Sections 111/112/135 of the Customs Act, 1962, and, Sections 364, 342, 120-B of the IPC added subsequently), registered at P.S. Airport, District Police Commissionerate Amritsar.

ALLEGATIONS IN THE FIR

2. The present FIR derives its genesis from a secret information regarding kidnapping. The relevant extract of the present FIR, as narrated in paragraph No.4 of the reply dated 28.05.2024, which is placed on record today by the learned State counsel, is reproduced hereinafter:-

“....on 28.10.2023, S.I. Palwinder Singh along with other police officials posted at Police Station Airport, Amritsar by riding official vehicle No. PB02-BL-1879 and two private vehicles in connection with patrolling and in search of bad elements were present at T-point, Airport,



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Amritsar. There, SI Palwinder Singh received secret information that some persons were making a person sit in vehicle Tata Safari No. CH04-A-8825 forcibly opposite Radisson Hotel and another car Polo was also with them, if they are chased immediately then the above said person can be saved from kidnapping. In pursuance to the above said information, SI Palwinder Singh along with accompanying police officials chased the above said persons and when the vehicles of the police party reached near Hotel Radisson then upon seeing the police party, the kidnappers bundled one person in their vehicle forcibly and fled away. SI Palwinder Singh along with accompanying police officials chased the above said vehicles and surrounded them some ahead of petrol pump situated on the road from Vallah to Mehtra, Amritsar. In the meanwhile, the Polo car managed to flee from the spot and the persons riding in Tata Safari car were apprehended by the police party. Upon enquiry, the occupants of the Tata Safari disclosed their identity as Nirmaljit Singh S/o Jaswant Singh R/o Dasmesh Nagar (Lola), Amritsar, Vishajit Singh S/o Managljit Singh R/o Village Tarsika, Amritsar, Harish Kumar S/o Kamaljit Singh R/o village Mandaali, Kapurthala, Harmandeep Singh S/o Sukhdev Singh R/o L-2/1163, New Gurnam Nagar, Gali No. 09, Mandirwala Bazaar, Sultanwind Road, Amritsar, Manpreet Singh S/o Hardev Singh R/o Village Othian, Mehta road, Amritsar and the kidnapped person namely Kuldeep Singh S/o Mohan Singh R/o Village SanghDhesian, Tehsil Phillaur, District Jalandhar was recovered from the above said car of the aforesaid accused persons. Therefore, the aforesaid FIR No. 59 dated 28.10.2023 was initially registered U/S 341/362/363/506/34 IPC at P.S. Airport, Amritsar...”

ALLEGATION AGAINST THE PETITIONER

3. Succinctly stated, the precise allegation surging forth against the petitioner, from a studied perusal of the reply (supra), is that, he had smuggled 599 grams paste of gold by concealing it in his anus, which was recovered at the time of his arrest in the present FIR.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

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4. The learned counsel for the petitioner, in his asking for the herein-above extracted relief, has made the following submissions:-

(i) The allegations of kidnapping, which constituted the bedrock for registration of the present FIR, are in fact false, as the allegedly kidnapped person Kuldeep Singh has himself sworn an affidavit (Annexure P-2) to the effect that he was never kidnapped;

(ii) On the strength of the affidavit (Annexure P-2), petitioner's co-accused have already been granted the concession of interim/ anticipatory bail;

(iii) Offence under the Customs Act is compoundable offence by making payment of the customs fee;

(iv) The petitioner has clean antecedents and he has suffered incarceration of approx. 7 months;

(v) Trial is at its initial stage and is not likely to conclude anytime soon, inasmuch as, out of total 13 prosecution witnesses, none has been examined so far, and therefore, keeping the petitioner behinds the bars would serve no gainful purpose;

SUBMISSIONS OF THE LEARNED STATE COUNSEL

5. *Per contra*, although the learned State counsel has opposed the grant of regular bail to the petitioner, however, he does not dispute the factum that the only role assigned to the petitioner is that, he had smuggled 599 grams paste of gold by concealing it in his anus. He has also placed on record the custody certificate of the petitioner. Moreover, on instructions imparted to him by the official concerned, the learned State counsel has verified that, none out of the total 13 prosecution witnesses has yet been examined.

REASONS FOR ALLOWING THE INSTANT PETITION



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6. Be that as it may, considering the hereinabove made submissions, especially the fact that: (i) the allegedly kidnapped person Kuldeep Singh has, through swearing the affidavit (Annexure P-2), claimed the prosecution version of kidnapping to be false and concocted; (ii) the sole allegation against the petitioner, as per the reply (supra), is that of smuggling and not of kidnapping; (iii) petitioner’s co-accused have already been granted concession of interim/anticipatory bail; (iv) as per custody certificate, the petitioner has clean antecedents and he has suffered incarceration of approx. 7 months; (iv) trial is at its initial stage and is not likely to conclude anytime soon, inasmuch as, out of total 13 prosecution witnesses, none has yet been examined, therefore, subjecting the petitioner to prolonged incarceration would serve no fruitful purpose; this Court deems it appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

7. It is clarified that, henceforth, if the petitioner is found indulging in commission of any similar offence, the respondent-State shall be at liberty to seek cancellation of his bail, as granted hereinabove.

8. 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 28, 2024
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(KULDEEP TIWARI)
JUDGE

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