

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213 (2 cases)

1. CRM-M-27939-2023
Date of decision: 19.01.2024

SahilPetitioner

Versus

State of PunjabRespondent

2. CRM-M-41883-2023
Date of decision: 19.01.2024

Bikram Sen @ Vicky @ Vikram SemPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Bhupinder Singh Kundra, Advocate
for the petitioner in CRM-M-27939-2023.

Mr. Sukhwinder Singh Kainth, Advocate
for the petitioner in CRM-M-41883-2023.

Mr. Arun Luthra, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.31 dated 10.02.2023 under Sections 399/402 of the IPC and Section 25 of the Arms Act registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib.

2. Learned counsel appearing for petitioner Sahil at the outset prays that since Section 411 of the IPC was added to the FIR subsequently, the same may be added to the head note and prayer clause of the petition.

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2A. On his oral request, Section 411 of the IPC is allowed to be added in the head note and prayer clause of the petition. The Registry is directed to do the needful.

3. Learned counsel for the petitioners inter alia contend that it is evidently a case of false implication inasmuch as both the petitioners have clean antecedents as they are not involved in any other criminal case much less a case of similar nature. It has been submitted that a secret information was allegedly received by the police against the petitioners and some others to the effect that they were planning to commit a dacoity; the police arrested them on 10.02.2023 and planted a false recovery of iron dah on both of them. Learned counsel submit that as per the allegations levelled in the FIR both the petitioners had been indulging in thefts of motorcycles and thereafter selling them, however, no stolen motorcycles were ever recovered from them and even the motorcycle allegedly recovered from them had been purchased by petitioner Sahil a month prior to the registration of the FIR in question. Learned counsel have submitted that even though a duly sworn in affidavit to the said effect had been given to the investigating agency, no notice was taken thereof. Learned counsel have further submitted that after their arrest the investigation stands completed and even charges stand framed, however, till date none of the 12 prosecution witnesses have been examined. It has, thus, been submitted that in the aforementioned facts and circumstances and in the light of the glaring loopholes in the case of the prosecution, the innocence of both the petitioners is clearly forthcoming and their further incarceration would serve no useful purpose as the trial would take considerable time to

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conclude.

4. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has reiterated the allegations levelled in the FIR which has been annexed as Annexure P-1, however, he has not disputed that the petitioners are not involved in any other criminal case. It has also not been disputed that after the charges were framed on 28.07.2023, the trial had not proceeded any further. Qua the submissions made about petitioner Sahil being the registered owner of the motorcycle which was allegedly the stolen property, learned State counsel has submitted that it would a matter of trial as to whether the said motorcycle had indeed been purchased prior to the registration of the FIR in question and could not be gone into at this stage.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioners have been in custody for almost a year having been arrested on 10.02.2023; there is no likelihood of the trial concluding in the near future as the prosecution evidence is yet to commence. They are not stated to be involved in any other criminal case. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioners.

7. Accordingly, both the petitions are allowed. The petitioners be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. Petitioner Sahil is also granted bail under Section 411 of the IPC.

However, it is made clear that anything observed hereinabove shall not

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be construed to be an expression of opinion on the merits of the case.

8. Needless to add, in case the petitioners misuse the concession of bail granted to them, the State would be at liberty to seek cancellation of the same.

19.01.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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