



CRM-M-30515-2024 (O&M)

1

214

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30515-2024 (O&M)
Date of Decision : 12.09.2024

Varun Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Karambir Singh Nalwa, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.16 dated 22.03.2024 registered under Sections 380, 457 IPC (Section 120-B, 201 IPC added later on), registered at Police Station Sadar Rupnagar.

2 Succinct factual narrative relevant for the disposal of the instant petition is that on 18.03.2024, complainant Sukhwinder Singh, Chief Chemist, Guru Gobind Singh Super Thermal Plant (in short GGSSTP), Rupnagar, moved a complaint averring therein that on 18.03.2024, at about 09:00 a.m., when the officials of the coal laboratory of the plant reached office, they found that the locks of the main doors of the laboratory and strong room were broken and 16 referral samples of M/s. MDCWL, which were kept in the locked almirah of strong room at laboratory, were also found in damaged condition. It was further averred by the complainant in his complaint that an attempt was made to tamper the samples and

CCTV equipment containing the recordings was also stolen. On the basis of



aforementioned complaint, the FIR in question was lodged against unknown person(s).

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated and he has not been named in the FIR and was called to join investigation on 16.04.2024 and 17.04.2024 at Police Station Ghanauli. The police on 24.04.2024 arrested Arvind Kumar and Piyush Kumar and recorded their disclosure statements, who nominated the petitioner as a co-accused in conspiracy. On 25.04.2024, the petitioner was called to join investigation. The petitioner joined investigation and he waited till the evening, when he was informed that he was being arrested in the present FIR. He further submits that the petitioner has been implicated on the basis of the disclosure statements of co-accused and for a payment of Rs.50,000/- made by the petitioner to co-accused Pushpinder Pandey.

4. Learned counsel contends that the petitioner was on work from home and on 17.03.2024, as per previous instructions given by the company and as informed to GGSSTP vide email dated 07.03.2024, the petitioner received a phone call at 11:16 a.m. from his subordinate colleague/co-accused, Arvind Kumar, who was present at GGSSTP, Ropar, informing him that the coal wagons will arrive at PSPCL site in Ropar at 2:00 p.m. and the petitioner was also informed that the Labour Contractor, co-accused-Pushpinder Pandey, will provide the manpower for unloading of the coal and filling the same in gunny bags. The petitioner called Sh. Nakul Gupta, COO of his company at 2:31 p.m. and informed him about the information supplied by Arvind Kumar/co-accused. The petitioner was instructed to travel to GGSSTP, Ropar, for coal sample monitoring the process.

Accordingly, the petitioner called co-accused Pushpinder Pandey at 2:37 p.m. to



finalize the amount to be paid for the work of unloading of coal and filling up of the same in the gunny bags. Later, the petitioner was informed by Pushpinder Pandey that the wagons have arrived and the process of unloading had started. The petitioner reached GGSSTP at 7:30 p.m. and called co-accused Arvind Kumar and Pushpinder Pandey, who came to the Main Gate and picked the petitioner on a motorcycle and took him to site of unloading of coal, inside the premises of GGSSTP. The petitioner at 8:12 p.m. called up his COO, Nakul Gupta, informing him that he has reached the site and further received necessary instructions to carry out the work. The phone details of the petitioner, which are part of the report under Section 173 Cr.P.C. clearly reflect that the petitioner was in constant touch on mobile with his office superior/colleagues to receive instructions and update status/progress of work. At 10:56 p.m. the petitioner called Nakul Gupta informing him about the total number of gunny bags of coal packed. Further, in the presence of officials of GGSSTP, few small bags of coal were separated and locked in a container by a lock provided by the officials of GGSSTP and were sealed with one time use seal with a unique number. The petitioner finally called Nakul Gupta at 11:53 p.m. informing him that the entire process had been completed and the sample bags stored in the container had been put in the laboratory of GGSSTP. The petitioner was informed that the process of coal sampling and its sealing were conducted on 19.03.2024 and the petitioner at around on 18.03.2024 at 12:15 a.m. departed from GGSSTP and reached his home at Phagwara at 1:30 a.m. As per the FIR, when the officials of GGSSTP reached to laboratory around 9:00 a.m. on 18.03.2024, they found that the locks of the main door and strong room of the lab were in broken condition and the information was immediately sent to Police Station Ghanauli and on the arrival of Police officials,

**CRM-M-30515-2024 (O&M)****4**

the three locks of Almirahs containing samples were found to be in broken condition. The petitioner had received an amount of Rs.80,000/- from his company in his bank account to bear expenses for the entire process carried out on 17.03.2024 and the petitioner had transferred a sum of Rs.50,000/- through UPI to co-accused Pushpinder Pandey on 18.03.2024 for providing man power. The balance amount was utilized by the petitioner for his travel expense and other expenses. On 19.03.2024, the process of making samples of coal, which were supposed to be forwarded to CSIR, Dhanbad, was to be conducted in the lab of GGSSTP in the presence of their officials and the petitioner also travelled to Ropar on 19.03.2024 to witness and monitor the process of preparation of samples. The canvas bags, which were stored in the locked container on 17.03.2024, were found to be intact condition with no signs of tampering. This entire process was completed on 19.03.2024 after the approval of Chief Engineer, GGSSTP in the presence of Police officials, PESCO Security, PSPCL Team consisting of Er. Rajan Sharma and Sh. Gurbinder Singh, who were appointed to submit reference samples and the representatives of M/s MDCWL Ltd. including the petitioner. The minutes of meeting dated 19.03.2024 reflecting the entire process carried out on 19.03.2024 has already been placed on record as Annexure P-1. The petitioner alongwith appointed officials of PSPCL left for Dhanbad on 20.03.2024 and took a Indigo Flight No.6E-2218 from Delhi at 3:55 PM for Dhanbad. The petitioner and the officials of PSPCL deposited the samples at CSIR, Dhanbad on 21.03.2024 and the petitioner, on 22.03.2024, left for Sonbhadra, UP for official work.

5. Learned counsel for the petitioner vehemently contends that from the sequence of events, it clearly indicates that the petitioner has been falsely implicated in the present case and he is in custody for over four months and there



CRM-M-30515-2024 (O&M)

5

is no likelihood of the trial concluding anytime soon. He has placed reliance upon judgments passed by Hon'ble Supreme Court in Special Leave to appeal (Crl.) No. 9817/2024 titled as ***Bibhav Kumar vs. State of NCT of Delhi***, decided on 12.07.2024 and Criminal Appeal No. SLP(Crl.) 5416/2024 titled as ***Prem Prakash vs. Union of India through the Directorate of Enforcement***, decided on 28.08.2024.

6. Learned State counsel has filed the custody certificate dated 28.08.2024 in Court today, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 04 months and 15 day as on date and there is no other criminal case registered against him. However in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

7. Heard.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The petitioner has undergone an actual custody of 04 months and 15 days as on 12.09.2024. The petitioner has clean antecedents and no other case is registered against him. The conclusion of the trial will take considerable time and further incarceration will not serve any purpose.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

(i) The petitioner will not tamper with the evidence during the trial.



CRM-M-30515-2024 (O&M)

6

(ii) The petitioner will not pressurize/intimidate the prosecution witness(s).

(iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.

(iv) The petitioner shall not commit an offence similar to the offence of which she is accused of, or for commission of which she is suspected.

(v) 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 her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

12.09.2024

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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No