



210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31765-2024 (O&M)
Date of Decision: 19.10.2024

KAPTAN SINGH

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. P. S. Ahluwalia, Advocate with
Mr. Keerat Dhillon, Advocate
for the petitioner.

Mr. Sharan Sethi, Addl. AG, Haryana.

Mr. Dharamveer Phour, Advocate and
Mr. J.P. Jangu, Advocate
for the complainant.

ALOK JAIN, J. (Oral)

CRM-39825-2024

The present application has been filed Section 528 of the BNSS, 2023 praying for placing on record the copy of the Order dated 24.09.2024 vide which the Charges have been framed by the Learned Trial Court as well as the formal charge sheet as Annexure P-9.

For the reasons mentioned in the application, the same is allowed as prayed for.

CRM-M-31765-2024

On the oral request of the counsel for the petitioner, the present petition is treated to be under Section 483 of the B.N.S.S. 2023.

2. The present second bail petition is for grant of regular bail to the petitioner in FIR No.255 dated 16.04.2020 under Sections 193, 201, 302, 325, 218, 466, 120-B of the Indian Penal Code, 1860 and Section 25/54/59 of the Arms Act, 1959, registered at Police Station City Hisar, District Hisar.

3. Learned counsel for the petitioner submits that the charges have



been framed on 24.09.2024 and as per the chargesheet, the petitioner has been charged under Section 120-B, 193, 201, 217, 218 read with 120-B IPC, all of which are bailable. The petitioner has also been charged under Section 466 IPC read with 116 IPC, which is the only non-bailable offence charged against the petitioner *qua* which he submits that the recovery is only of a register which is in the possession of the prosecution agency and he has been charged under Section 116 IPC for abatement of the crime under Section 466 IPC which is not substantial. He further submits that the petitioner is in custody since 01.05.2024.

4. *Per contra*, learned State counsel along with counsel for the complainant has vehemently opposed the grant of concession of regular bail to the petitioner and have submitted that the petitioner has played a pivotal role in the tempering with the evidence and rather create such an evidence for the benefit of the main accused who was none other than PSO of the present petitioner as he was posted as Deputy Superintendent of Police. It is further submitted that the complainant had moved an appropriate application for amendment of the charge praying that the petitioner be charged under Section 116 IPC also. The said application is pending before the learned trial Court for 25.10.2024. It is further submitted that there are high chances that the petitioner will try to influence the trial as he is holding such a position and it can be detrimental to the rights of the complainant. The petitioner is in custody only for the last 05 months and 15 days (as per the custody certificate dated 15.10.2024) and challan has already been presented.

5. Heard learned counsel for the parties.

6. In light of the above and considering the fact that the charges framed against the petitioner are bailable except the charges under Section 466 read with Section 116 IPC . As regards to the contention of the

complainant that they have moved an application for amendment of Charge is



the concerned, the same will be dealt with in accordance with law and in case the complainant succeeds in the same the petitioner will have to seek bail in the amended charges levied against him, at appropriate stage in accordance with law. As regards the contention that the petitioner is likely to influence the trial and the evidence due to the position he is holding, the same can be checked by imposing stringent conditions. The state counsel could not apprise the Court if any disciplinary proceedings have been initiated against the petitioner or not. Considering the matter in totality, the petitioner has already undergone sentence of almost 5 ½ months as on date and that the trial is likely to take some time, no useful purpose would be served by keeping the petitioner in custody, hence, the petitioner is entitled to the grant of the concession of regular bail.

7. Therefore, without commenting upon the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail if not required in any other case by furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate/CJM, concerned. He shall, however, be released on the following conditions:

- i. The petitioner shall declare his ordinary place of residence and the mobile number used by him.
- ii. The petitioner will not switch off his mobile and in case of any technical glitch, he has to give an alternate number, which will be available in his absence.
- iii. The petitioner will mark his presence before the SHO concerned, after every 15 days and in case the SHO refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.
- iv. The petitioner will not leave the country without the prior permission of the Court, for which he will submit



the copy of his passport also. However, in case the petitioner does not possess a passport, then he shall file an undertaking to the said effect before being released.

8. The petitioner shall abide by the terms and conditions as imposed in addition to Section 483 of BNSS, 2023.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and, It is further made clear that, in case, the petitioner is found involved in any such activity once again, or is involved in pressurizing or tempering with any evidence, the State and the complainant is at liberty to promptly move an appropriate application for cancellation of bail detailing out the circumstances and violation of condition(s) of bail. The petitioner shall not try to influence or contact the witnesses or the complainant either directly or indirectly through any other source and shall also not disturb the trial in any manner whatsoever.

11. It is further made clear that this order shall not be construed as parity *qua* any other co-accused, as in this case the authorities and official have played separate roles to de-rail the investigation and hamper the judicial process.

(ALOK JAIN)
JUDGE

19.10.2024

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*