

(211)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38209-2023
Date of Decision: 08.01.2024

BHUPINDER KUMAR @ SONU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Suresh Kumar Arya, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.32 dated 21.02.2023 registered under Section 420 IPC (Sections 379/411 IPC added later on) at Police Station City Phagwara, District Kapurthala.

2. The present FIR came to be registered at the instance of Amarti Devi wife of Parmeshwar Ram who stated that on 16.01.2023, she had sent her son Deepu Kumar to withdraw money from the ATM. He came back home and gave her Rs.5,000/- along with the ATM card. However, later on, when she checked her bank statement, it was found that bank account contained only Rs.16/-. On an inquiry, she came to know that Rs.5,82,000/- had been withdrawn from her bank account from 16.01.2023 to 05.02.2023. On questioning her son Deepu Kumar, he told her (complainant) that when he had tried to withdraw money on a previous occasion, three boys standing outside the ATM had helped him withdraw the money. On further inquiry, it

was revealed that on 16.01.2023 while withdrawing money, Deepu Kumar, her son had given her ATM to the boys and they had given their ATM Card to him (Deepu Kumar). Thus, the boys had withdrawn Rs.5,82,000/- from her account by using the said ATM card at different locations. During the course of investigation, it transpired that the petitioner-Balwinder Kumar @ Sonu and Ajay Kumar had committed the offence in question.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. No notice under Sections 41 & 41A of the Cr.P.C. was given to the petitioner before arresting him. As the petitioner was in custody since 27.02.2023 and none of the 11 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail moreso when he had clean antecedents.

4. On the other hand, the learned State counsel while referring to the reply dated 11.12.2023 contends that the petitioner and his co-accused fraudulently withdrew a sum of Rs.5,82,000/- from the bank account of the complainant. The offence *prima facie* stood established against the petitioner and his co-accused. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He, however, concedes that the petitioner was in custody since 27.02.2023, none of the 11 of the prosecution witnesses had been examined so far and that the petitioner was a first-time offender.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial.

Admittedly, the petitioner is a first-time offender, in custody since 27.02.2023 and none of the 11 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Bhupinder Kumar @ Sonu son of Rakesh Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

08.01.2024

JITESH

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