



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM-M No.43167 of 2024
Date of Decision: 25.09.2024

Harjeet Singh @ Happy ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep S.Majithia Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

Mr. Anupam Bhardwaj, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
45	16.06.2024	Mohkampura, District Police Commissionerate Amritsar	381, 409 and 120-B of IPC

2. Adumbrated facts as emanating from the record are that the aforementioned FIR has been registered on 16.06.2024 on the basis of the statement of complainant Vinod Mehra alleging therein that he is the

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owner of M/s S.V. Knitting Industry, Ceremony Resort Street, Batala Road, Amritsar and about 10-15 days ago, they had gone to their godown and found that 74000 meter knitted fabric worth Rs.45 Lakhs was missing. From the CCTV camera footage, it was found that some unknown persons were taking knitted fabric while loading it in a small pickup van on 1.6.2024, 03.06.2024 and 04.06.2024. During the course of investigation, the statement of Amit Kumar son of the complainant was recorded to the effect that he had employed Jasbir Singh alias Bira for cutting of the fabric in their factory who along with Chowkidar Jai Parkash Khuswah, had committed the theft of about 1,10,000 meter fabric alongwith some unknown persons. Jasbir Singh alias Bira, was arrested and suffered a disclosure statement to the effect that he along with co-accused Jai Parkash Khushwah had sold fabric after stealing it from the Godwon of S.V. Knitting Industry. Some of the said fabric was sold to Royal Fashion, Tarn Taran Road, village Gharwali and some was sold to the petitioner. On the basis of aforesaid disclosure of accused Jasbir Singh alias Bira, the petitioner was nominated in this case. He was arrested on 27.06.2024 and suffered a disclosure statement to the effect that he was doing the work of broker for selling clothings to firms. One day he had gone to Dev Net Fabs, MFRS Suppliers for taking samples of knitted fabric, where he overheard the conversation between accused Jasbir Singh Bira and the owner of the Dev Net Fabrics namely Dinesh Kumar i.e. co-accused, wherein Jasbir Singh alias Bira was telling him that he could make available fabrics at cheaper rates, upon

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which, the petitioner asked both of them to make him their partner. Dinesh Kumar told the present petitioner that they would divide the profit of the sale of the fabric equally, which they would purchase from Jasbir Singh alias Bira at lower rate. The petitioner agreed to the same and thereafter the knitted fabric which they purchased from Jasbir Singh alias Bira was sold by them to Arihant Cloth Store, New Delhi. On the basis of the aforesaid statement of the petitioner, the accused-Dinesh Kumar was nominated in the present case. The petitioner moved an application for grant of regular bail which was dismissed by the Court of learned Additional Sessions Judge, Amritsar vide order dated 12.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of the co-accused Jasbir Singh @ Bira which cannot be taken into consideration. He is in custody since 27.06.2024. Trial is likely to take time. The co-accused Dinesh Kumar has been extended benefit of interim pre arrest bail. On the ground of parity, he too deserves to be extended benefit of bail. He does not have any criminal antecedents. He is not an employee of the complainant nor any entrustment had been made to him. Therefore, the provisions of Section 409 of IPC are not attracted qua him. The allegations qua theft of the rolls of knitted clothing from the premises of the complainant are as against the co-accused Jasbir Singh alias Bira and Jai Parkash Khuswah who were employees of the complainant and not against him. Therefore, it is urged that the petition deserves to be allowed.

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4. Status report has been filed by the respondent-State. Learned State counsel assisted by learned counsel for the complainant has submitted that there are serious and specific allegations against the petitioner who was instrumental in sale of the cloth stolen from the premises of the complainant. Two rolls of knitted cloth out of the stolen rolls have been recovered at his instance, from his residential address. Clothing worth several lakhs of rupees had been stolen and then sold at the behest of the petitioner. There are chances of his absconding or tampering with the prosecution evidence if extended benefit of bail. Therefore, it is urged that he does not deserve to be released on bail.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. The petitioner in connivance with the co-accused is alleged to have received rolls of knitted cloth stolen from the factory of the complainant and is further alleged to have sold the same further and derive financial benefits thereby. The subject offences are triable by Magistrate. It is a debatable question as to whether the provisions of Section 409 of IPC are attracted in the matter? The petitioner is in custody since 27.06.2024. The investigation has since been completed. Trial is likely to take time. His further detention would not serve any useful purpose. It is well settled proposition of law that bail is the rule and jail is an exception. Keeping in view the discussion as made above but without meaning to make any comment on the merits of the case, the petition is allowed and the petitioner

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is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

25.09.2024
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(MANISHA BATRA)
JUDGE

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