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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-51852-2023 (O & M)
Date of decision: 12.01.2024

Ashok Kumar @ Gocha
V/s
State of Punjab

.... Petitioner

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI
Present: Mr. Rahul Bhargava, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab

JASJIT SINGH BEDI, J. (Oral)

CRM-1363-2024

The application for placing on record the copy of the judgment dated 20.11.2023 and order of quantum of sentence dated 28.11.2023 passed by the Additional Sessions Judge, Amritsar as Annexure P-9 is allowed as prayed for. The aforesaid documents are taken on record subject to all just exceptions.

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The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.123 dated 19.08.2022 under Sections 420, 465, 468, 471 IPC registered at Police Station Dugri, District Police Commissionerate Ludhiana, Punjab.

2. The present FIR came to be registered on the basis of secret information and reads as under:-

“To Station House Officer Dugri Ludhiana, Police Station, Jai Hind. Today I/ASI Naseeb Singh No: 2212/ Ludhi along with ASI PHG Ravinder Singh No: 16375 driving on private vehicle in search of bad and suspicious elements and

were present near Chik-Chonk Chowk Phase-1 Market Dugri Ludhi whereby a secret informer came and informed that Harminster Singh alias Soni son of Kulwant Singh resident of house no: 2341 near Ravidas Dharamshala javdi Kalan who at Urban Vihar Road Punjabi Bagh near Jolly Ambarsariya shop had open a shop by name Harman collection where Harminster Singh alias Soni is doing the work of repairing mobile phones and selling SIM Cards of different-different mobile phones companies and is also selling confectionary goods in the said shop who is selling SIM cards of different mobile companies by using someone else's ID proof and is selling the same usually at higher prices. Further, the people who used to give their ID proof at the time of purchase of SIM Card, he using the same ID Proof said persons and further is committing fraud with the said people and he after tampering with the ID proofs of the said persons is selling the SIM cards of different mobile companies and by doing so he is conducting fraud with the customers. If raid is being conducted at this point of time, then from Harminster Singh alias Soni fake ID proof of Adhar Cards along with the mobile phones which are used to activate SIM Cards from which you can get a record of activated mobile numbers on fake ID proofs. Secret informer Is correct and reliable. Harminster Singh Soni by doing this act committed an offence under section 420, 465, 468, 471 of IPC. After registering the FIR against Harminster Singh alias Soni, son of Kulwant Singh, resident of House No. 2341, near Ravidas Dharamshala, Jawadi Kalan Police Station, Dugri Ludhi, and after registering the Ruqa the same is being sent to PHG Ravinder Singh Police Station No. 16375 for registration of the case. After registering the FIR number may be Intimated. Control room should be Informed about the case number. Special reports be prepared and sent to Senior Police officers and Illaga Magistrate. Today I/ASI along with other police are present at the spot at Chik- Chonk Chowk Phase-1 Market

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*Dugri Ludhi: AT:- 8.40 PM / SD/ Gurpreet Singh No 2858/
Ludhi: Police Station Dugri Ludhiana Date 19.08.2022”.*

3. Following the registration of the FIR, Harminder Singh/co-accused was apprehended on 19.08.2022. On 21.08.2022, a register containing entries pertaining to four mobile phone SIM cards bearing Nos. 95018-76383, 95014-51796, 91154-98067 and 77103-67221 were recovered from his shop. During investigation, he revealed that on 05.07.2022, he had supplied four mobile phone SIM cards (issued under the identities of other individuals) to Bavneet Singh @ Micky.

Bavneet Singh @ Micky was apprehended on 23.08.2022 and revealed that at the behest of Fatehdeep Singh @ Aadil, he had procured four mobile phone SIM cards from Harminder Singh without furnishing any I.D. proof. He disclosed that the SIM cards were intended to be used in illegal activities at Amritsar. He also revealed that he had supplied the said mobile phone SIM cards to two associates of Fatehdeep Singh, namely, Yuvraj Sabharwal and Vinay Thapar.

Subsequent to the aforementioned disclosure statement, Fatehdeep Singh @ Aadil, Yuvraj Sabharwal and Vinay Thapar were implicated as accused in the present case. The disclosure statement of Vinay Thapar was recorded, on the basis of which Ashok Kumar @ Gocha (petitioner) and Avi Sethi were nominated as accused. According to the statement of Viany Thapar, on 23.07.2022, he alongwith Yuvraj Sabharwal had visited Avi Sethi's residence where Avi Sethi had received a call from the petitioner (who was incarcerated at the time). The petitioner had allegedly informed Avi Sethi that he had arranged for a pistol and 10 cartridges which were to be delivered at Ludhiana Railway Station on

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24.07.2022. Subsequently, the aforesaid pistol and cartridges were collected by Yuvraj Sabharwal from Ludhiana Railway Station as arranged by the petitioner.

On 27.09.2022, Sections 216 and 212 IPC were included in the present case on the disclosure provided by Avi Sethi.

The report under Section 173(2) Cr.P.C. was submitted under Sections 420, 465, 467, 468 and 471 IPC (excluding Sections 212 and 216 IPC) was submitted against Bavneet Singh @ Micky, Fatehdeep Singh @ Aadil, Vinay Thapar, Harminder Singh, Abhi @ Avi Sethi and Yuvraj Sabharwal.

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case on the basis of the disclosure statements of his co-accused. No recovery had been effected from him. Four co-accused, namely, Harminder Singh, Vinay Thapar, Bavneet Singh @ Micky and Avi Sethi had been granted the concession of regular bail vide separate orders dated 19.05.2023 passed in CRM-M-50011 of 2022 and CRM-M-51482-2022 passed by this Court and separate orders dated 25.07.2023 passed by the Additional Sessions Judge Ludhiana (Annexures P-3, P-4, P-5 and P-6 respectively). As the petitioner was in custody since 01.09.2022 and only 03 out of the 12 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, the petitioner was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, has filed a reply dated 12.01.2024. The same is taken on record. While referring to the said reply, he contends that as per the investigation conducted in the

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present case it surfaced that one of the mobile phone SIM card bearing No.95018-76383 procured by the accused-Bavneet Singh @ Micky from Hariminder Singh (without any requisite ID proof) and subsequently handed over by Bavneet Singh to Yuvraj Sabharwal and Vinay Thapar was utilized in a mobile phone connected to the I.E.D. device discovered under the car of SI Dilbagh Singh in Amritsar. Therefore, the serious nature of the allegations 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 01.09.2022, only 03 of the 12 prosecution witnesses had been examined so far and that four co-accused, namely, Harminder Singh, Vinay Thapar, Bavneet Singh @ Micky and Avi Sethi had been granted the concession of bail.

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

7. 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 in custody since 01.09.2022, the investigation stands concluded and only 03 of the 12 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Further, four similarly situated co-accused have already been granted the concession of bail. In this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ashok Kumar @ Gocha 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.

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9. 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 case/crime other than the case(s) referred to in this order.
- 10 If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.
11. 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 Trial without sufficient cause.
12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 12, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No