

CRM-M-53169-2023 (O&M)
Date of decision : 07.02.2024

...Petitioner

...Respondent

Present : Mr. Balkar Singh, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana,
for the respondent.

None for the complainant.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.0093 dated 29.04.2023, under Sections 120-B, 395 and 506 of the Indian Penal Code, 1860, registered at Police Station Pratap Nagar, District Yamuna Nagar.

2. Above FIR was registered on the basis of complaint made by one Anil Kumar with the allegation that petitioner in conspiracy with his accomplices robbed him of Rs.7,00,000/- as well as two blank signed cheques from his car. For brevity, contents of the FIR are reproduced as under:-

“It is submitted that I, Anil Kumar son of Jogi Ram, am resident of village Tatiyana, Police Station Silai, District Sirmor, Himachal Pradesh, at present resident of Sharma

Niwas, Shiva Colony, Block-C, Taruwala, Ponta Sahib. I have a College and Hotel in Ponta Sahib. I purchase furniture etc. for my college and hotel from Yamuna Nagar. On 27.04.2023, I had withdrawn Rs.5.00 lacs from the account of the college and today on 29.04.2023, had withdrawn Rs.2.00 lacs from my account. At about 10.30 A.M. I after boarding in my car No. TO323HP4913 Marka Venue, after taking my amount of Rs.7.00 lacs, had started from Ponta to Yamuna Nagar. In the noon at about 1.30/2 PM when I, after crossing Partap Nagar Karora reached towards Yamuna Nagar, a boy had given signal with hand to me. I had stopped the car and he had to go Jagadhri. I had taken him, he appeared to be student to me. When I covered some distance, the boy who had taken lift from me, started saying that I have to take water. I stopped the car and that boy brought the water and I again after taking him, started for Yamuna Nagar. The boy had taken out a laptop from his bag and started doing something and told me that I have to send a mail, net is not working, stop the car once. Then I took the car in a side and stopped. Then the boy had made a phone call. Then from behind a vehicle of Dial 112, bearing No. HR99-0674 after coming there had stopped and from the vehicle three police officials in dress and one person in civil dress alighted therefrom, and a person in civil dress was sitting in the vehicle Dial 112 and he after alighting, started rebuking me and one person took out key of my car. I had feared and the boy sitting with me, after talking with them, all of them had taken search of my vehicle and surrounded my car. They lifted a carry bag containing cash of Rs.7.00 lacs and two blank cheques having my signatures were lifted by them and all the police officials boarded in vehicle Dial 112. The police officials asked me to stop there and went away after taking Dial 112 vehicle.”

3. Contends that petitioner has been falsely implicated in the present case as there is no incriminating material against him. Also contends that petitioner is not named in the FIR; rather, nominated on the basis of disclosure made by co-accused-SPO Manjit Kumar. Further contends that there is no other criminal case against the petitioner and investigation is already over, but charges are yet to be considered; thus, the trial is likely to take sufficient long time; hence, sending him in custody at this stage would not serve any purpose.

4. *Per contra*, learned State counsel, while opposing the prayer, submits that petitioner is very much involved in the commission of crime in the present case. He further submitted that petitioner along with other co-accused hatched a conspiracy to commit the offence while robbing the complainant to the tune of Rs.7,00,000/- as well as two blank signed cheques. Also submitted that a report under Section 173 Cr.P.C has already been presented before the court of competent jurisdiction and after going through the Call Detail Record (CDR) of the mobile phone of the petitioner, his complicity is apparent. He also submitted that at the time of occurrence, petitioner as well as other co-accused were in constant touch with each other through their mobile phones; during Test Identification Parade, petitioner along with other co-accused were duly identified by the complainant. Learned State counsel specifically submitted that petitioner is the member of a gang with some police personnel, who are accused in this case; hence, releasing him on bail shall hamper the fair trial.

5. Heard both sides and perused the paper-book.

6. It transpires that none of the accused was previously known to the complainant; hence, they were not specifically named at the time of registration of the present FIR. However, in view of the allegations levelled therein, immediately, notices under Section 41-A Cr.P.C. were served upon SPO Manjit Kumar No.274/AMB, SPO Jasbir Singh No.152/YNR, ESI Ram Bhool Singh No.676/YNR, who at relevant point of time were occupying the Government Vehicle No. ERV-HR-99-0674 (Dial 112). After interrogation of the above accused, they were arrested and the Government Vehicle (*supra*)

was taken into police possession. During interrogation, accused SPO Manjit Kumar made a disclosure about the complicity of petitioner-Sandeep Kumar alias Chota (Home Guard), Haroon alias Sonu, Sanjeev Kumar, Ravi alias Jony and Rameshar Saini; including their role in the commission of offence. Also come on record during investigation that petitioner along with other accused was present at the place of occurrence. Apart that, there is sufficient material with the police to indicate that before commission of crime, all the accused were in constant touch with each other and they hatched a conspiracy to rob the complainant on highway. Also noteworthy that petitioner along with other co-accused has been duly identified by the complainant during Test Identification Parade conducted by the police.

7. During the course of hearing, learned State counsel apprised the Court that all three police officials, who are accused in the present case, have been terminated by the competent authority on account of their 'gravest act of misconduct'. Petitioner, being a Home Guard, was expected to protect the common man; but while misusing his uniform, as well as the police vehicle, he along with other accused, robbed the complainant which, of course, cannot be taken lightly.

8. In view of the facts and circumstances discussed herein-above, *prima facie* the allegations are very serious, therefore, releasing the petitioner on bail will certainly hamper the fair trial.

9. Thus, in such a scenario, there is no option, but to dismiss the petition at this stage.

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10. Ordered accordingly.
11. It is clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.
12. Pending application(s), if any, shall also stand disposed off.

07.02.2024
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :
Whether Reportable :

Yes No
Yes No