

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-57560-2023

Date of Decision:-28.02.2024

Sunny Kumar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Diksha, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.87 dated 18.08.2021 under Sections 15 of Petroleum and Mineral Pipeline (Acquisition of Rights of User in L.D.) Act, 1962, Sections 3 & 4 of Explosive Substance Act, 1908, Section 379, 511 IPC, Section 3, 4 of Prevention of Damage to Public Property Act, 1984, Later on Section 15iv, 16 Amendment Act of Petroleum and Mineral Pipeline Act, 2021 were added in the Challan registered at P.S. Rohdai, District Rewari.

2. The brief facts of the case are that on 18.08.2021, Sunil Kumar, Patrolling Man, saw in the morning at about 10.30 a.m., that on Pipeline No. CH 217.800 in village Rohdai, there was some loose soil. Upon suspicion, Sunil Kumar tried to insert a metal rod into the loose soil and the rod got inserted into the soil easily. When he tried to dig out the soil, he found that

on the IOCL pipeline there were two valves fitted. From his mobile No. 9671402766 information was given to the IOCL mail line officer i.e. to the complainant-Sachin Yadav on his mobile No.88827-21571. Upon receiving the information, Sachin Yadav transmitted the same to the IOCL higher officers and reached at the spot. Upon checking, it was found that two valves had been fitted on the SMPL line. Some unknown persons were found to have committed theft of oil through the IOCL pipeline.

During the course of investigation, the Superintendent of Police, Rewari constituted an SIT. FIR No. 112 dated 10.04.2021, Police Station Bawal was found to have been registered against Ravi, Harish (petitioner in CRM-M-57041-2023), Ravinder @ Bablu, Vijay @ Ajay, Binder (since granted bail vide order dated 15.12.2023 in CRM-M-61850-2023), Suraj (petitioner in CRM-M-56942-2023), Manish (petitioner in CRM-M-56949-2023) alongwith Anil @ Sonu (since granted bail vide order dated 19.10.2023 passed in CRM-M-41808-2023) and they had been arrested in the said case. One Sunny Kumar (petitioner) was also arrested. They had suffered their respective disclosure statements admitting their involvement in the commission of the present crime as well and stated that the equipment used in the commission of the offence had already been recovered by the police during the course of investigation of FIR No.112 dated 10.04.2021. Accused were taken on production warrants and were joined in investigation. They were arrested on 14.02.2022 in the instant case.

Anil @ Sonu was found to be the driver of the oil tanker which was used to transport the stolen oil. The said tanker had been recovered from him during the course of investigation of FIR No.112 dated 10.04.2021. It had also transpired that he had been instrumental in digging up the place of theft at the pipeline site to facilitate the commission of theft of oil, and

therefore, had actively participated in the commission of the crime.

During the course of further investigation, accused Dinesh Rathi was joined in investigation and admitted his involvement in the commission of the present offence. Co-accused Sunil @ Banda was arrested in connection with the investigation of FIR No.75/2021 registered at Police Station Rohrai and during the course of investigation, admitted his involvement in the present offence as well. The final reports in the present case were filed qua the arrested accused on 13.05.2022, 17.10.2022 and 17.04.2023. However, the final report qua the arrested accused Mohit @ Motta and Brijesh @ Julfi is yet to be filed.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but had been falsely implicated on the basis of his own disclosure statement got recorded when he was arrested in FIR No. 112 dated 10.04.2021. The said disclosure statements has no evidentiary value in the eyes of law. As the petitioner was in custody since 21.01.2022 and only 03 of the 24 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when in 05 other cases registered against him, he had already been granted the concession of bail in one of the case and a co-accused, namely, Anil @ Sonu and Binder @ Virender had been granted the similar relief.

4. The learned counsel for the State, on the other hand, has filed Status report by way of affidavit dated 25.02.2024 of Mr. Jai Singh, HPS, Deputy Superintendent of Police, Kosli, District Rewari in court today, which is taken on record. While referring to the said reply he contends that the petitioner is one of the main accused who had committed the offence alongwith the other accused. He contends that the petitioner was an accused in 05 other cases registered against him and therefore, his criminal

antecedents did not entitle him to the grant of bail. He, however, concedes the fact that the petitioner is in custody since 21.01.2022, only 03 out of the 24 prosecution witnesses had been examined so far and out of the 05 pending cases, the petitioner had been granted the concession of bail in one case.

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

6. Admittedly, out of the 05 other cases registered against the petitioner-Sunny Kumar, in 01 case he has been granted the concession of bail.

7. Further, the petitioner has been inculpated on the basis of his own disclosure statements and that of his co-accused suffered in FIR No.112 dated 10.04.2021. Whether the other evidence available against the petitioner is sufficient to affix liability upon him would be a matter of adjudication during the course of the Trial. At this stage, the petitioner is in custody since 21.01.2022, the investigation stands completed and only 03 of the 24 prosecution witnesses have been examined so far. Thus, the trial in the present case is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not warranted, moreso, when in 01 of the 05 cases, he has been granted the concession of bail and his co-accused, namely, Anil @ Sonu and Binder @ Virender have been granted the similar relief vide orders dated 19.10.2023 and 15.12.2023.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-**Sunny Kumar** son of Sh. Rajbal is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

9. The petitioner shall appear on the first Monday of every month

before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case/crime other than the case(s) mentioned in this order

10. In addition, the petitioner (or through someone else 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.
11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 28, 2024
Vinay

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