

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

215-2

CRM-M-60929-2023 (O&M)

Date of decision: 09.04.2024

Virender

.....Petitioner

Versus

U.T. Chandigarh

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Ankur Malik, Advocate and  
Mr. Monu Sharma, Advocate  
for the petitioner.

Mr. Manish Bansal, P.P. U.T., Chandigarh with  
Ms. Diksha Sharma, Advocate  
for the respondent-UT Chandigarh.

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**MANJARI NEHRU KAUL, J. (ORAL)**

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.140 dated 06.08.2023 under Sections 365, 386, 420, 506, 120-B of the IPC (Section 364-A, 389 of the IP added lateron) registered at Police Station Sector 39, Chandigarh.

2. Learned counsel for the petitioner vehemently asserts that he has been falsely implicated in the instant case, emphasizing that he was merely performing his official duties at the time of the alleged incident. He has further submitted that co-accused Sub Inspector Naveen Phogat, who at the relevant time was posted as Acting Station House Officer (Acting SHO) of Police Station Sector 39, Chandigarh, contacted the petitioner while the latter was stationed at the Beat Box in Sector 41, Chandigarh. Co-accused Sub Inspector Naveen Phogat purportedly informed the petitioner of certain individuals engaging in

illegal cash transactions and hence, he was asked to accompany Sub Inspector Naveen Phogat to apprehend those suspects. Learned counsel for the petitioner has maintained that he acted as per the orders of his superior officers i.e. co-accused Sub Inspector Naveen Phogat, and thereafter proceeded to the designated location as per instructions. Upon arrival, he merely assisted in searching the detained individuals and the vehicle, as per the orders given to him by his superior officials. Subsequently, he was instructed by his superior officials including co-accused Sub Inspector Naveen Phogat to remain with the apprehended suspects to prevent their escape, however, during transit, co-accused Sub Inspector Naveen Phogat allegedly diverted the vehicle towards Ziri mandi instead of the designated Police Station at Sector 39, Chandigarh. Recognizing the departure from proper procedure by his superior officers, the petitioner promptly returned and reported the incident to the Munshi of the Police Station, who assured him that the matter would be brought to the notice of the SHO of Sector 39, Chandigarh. Regrettably, before any action could be taken, the FIR in question was registered, implicating the petitioner falsely therein. Learned counsel has further pointed out that a careful perusal of the FIR reveals that no specific accusations have been levelled against the petitioner, and he has been implicated only because he happened to be on duty at the Beat Box in Sector 41, Chandigarh, as corroborated by the statement of L/C Monu annexed as Annexure P-2. Furthermore, learned counsel for the petitioner has submitted that the petitioner has now been in custody for nine months since his arrest on 08.08.2023; the investigation in the case in hand is complete as even challan stands

presented, hence, no useful purpose would be served in keeping the petitioner incarcerated as there is no likelihood of the trial concluding in the near future. Additionally, it has also been asserted by the learned counsel that the petitioner has a clean record and has never been involved in any other criminal case.

3. Per contra, learned counsel appearing for UT Chandigarh has vehemently opposed the prayer and submissions put forth by the learned counsel for the petitioner by contending on instructions that the petitioner was among the three individuals summoned to the location by co-accused Vijender Singh @ Gill. Although the petitioner was indeed stationed on duty at the Beat Box in Sector 41, Chandigarh, he actively participated in advancing the conspiracy orchestrated by the co-accused to defraud the complainant of huge sum of money under the guise of assisting in certain illegal cash transactions. The fact that the investigation in the present case has concluded and challan also presented has not been disputed by the learned State counsel on instructions. However, he on further instructions has apprised the Court that charges are likely to be framed on the next date of hearing. The learned State counsel on further instructions has also acknowledged that the petitioner is not involved in any other criminal case.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. It would be apposite to reproduce the relevant extract of the FIR:-

*“To, Sh.SHO Sahib, P.S. 39, Chandigarh . Sir, it is requested that I am Sanjay Goel shon of Shiv Pal Goel, R/o H.No. 13679 Ganesh Nagar Bathinda Pb and I am*

*wholesaler of Pulses. One known person of mine namely Sarvesh who des Currency/Coin Work on 4.8.2023, he called from his mobile No.7814004040 to my mobile No.9814586552 and told that he has many 2000 Denomination of Indian currency and how much you can change of 500-500 denomination of Indian currency from me. On which I told him that I can change Rs.1 Crore and can give same amount in 500-500 Denomination of Indian Currency. He said it is ok and told me about one person namely Jitender who has his own business at Aero City Mohali whose Mobile No.9988531010 and told me to meet him and do what he says. On same day, I alongwith my known person namely Raj Kumar in his own Honda City car No.PB03-AT-7027, took Rs.1 Crore in 500-500 Denomination of Indian Currency, put Rs.60 lacs in one box in Dicky of Car and Rs.20 -20 lacs in two packet took with me and Rs.1 lacs put in my pocket, at about 2.45PM, I left Bathinda for Mohali Aero City, Raj Kumar driving the said vehicle and I was sitting on the passenger seat. At about 5.30/6.00PM, I alongwith Raj Kumar alongwith cash in my car reached at the location sent by Jitender of Aero City Mohali of H.No.2434 C Block Aero City Airport Road, I following the location and reached at Bright Immigration address 2434 C Block Aero City Airport Road Mohali, one Sardar came to our car and told us that the work told by Sarvesh will be done and told us to follow his car. After this Jitender in his black colour Mercedes in which two persons were already sitting started driving his vehicle and we started following him. He took us to Thakur Tikki wali Market parking Sector 40 Chandigarh, we parked our car in the said parking. Jitender came out of his car and sat in back seat of our vehicle. And one another person who was wearing a cap also sat in back seat of our vehicle alongwith Jitender. Jitender was calling him Gill Sahib. After that Jitender and Gill told us that since morning they are being harassed and nobody is changing their currency of 2000 Denomination of Indian Currency. They told me to show them the currency which I have brought so that they can believe me, on which I showed them Rs.40 lacs of 500-500 Denomination which I was carry and told them that remaining Rs.60 lacs is in the dicky of the car. If they want, they can check the same. They replied that they believe me and told me to stop for a while and our work will be done. After that they called somebody on phone and told that party has luggage and to bring their luggage at Sector 40 Thakur Tikki Market. After about 1/2 hour, no party /cash /person came to change at about 7.00/7.30PM, three persons came towards our vehicle in which one person was in police dress, one person was wearing Khaki pent, Brown shoes and light yellow colour shirt and third person was wearing jeans*

*and black shirt. The person who was wearing uniform known the dicky of the car from back and told to open the dicky, at once Jitender and Gill got out of the vehicle and left. The person who was wearing Khaki pent, brown shoes and light yellow colour shirt got opened the window of side , where Raj Kumar was sitting and took out keys of the vehicle and himself opened the dicky of the car and the third person took mobile phone of both of us and put the same on flight mode. The person who was wearing uniform sat on driving seat of our vehicle. I remained seated at passenger seat of front side and driver Raj Kumar sat at back seat of the vehicle being driven by person wearing Khaki pent and alongwith cash threatened both of us to remained silent and took us to Police beat box which was nearby. And the person who took our mobile phones also followed us in Duster vehicle at Beat Box. After that all three persons got us seated in beat Box and also took Rs.1 Crore which we brought to change, and kept the same at Beat Box. Here they searched us and took Rs.1 lacs which was in my right pocket and also took RC and DL forcibly of my known person Raj Kumar. During this, one tall person who was wearing jeans and T-Shirt who was carrying pistol noted particulars of my DL and RC. After that we objected for taking our money, mobile and documents. On this, these all persons threatened us to kill and told us to sit silently. After that the person who was wearing Khaki pent, Brown shoes and light yellow colour shirt put Rs.1 Crore, Rs.1 lac cash , DL, RC in Duster Car from Beat Box and left from there. And after that remaining three persons took both of us in our Honda City Car and by driving themselves took us near Ziri Mandi Shed Sector 39 lonely place. Where after some time, the person who was wearing Khaki pent, Brown Shoes and light yellow colour shirt came there in Duster Car and all these four person threatened us to kill by showing the lonely place and told us that we will be falsely implicated in pistol and drugs case and life will be spoiled and told us to run away and not to see backwards as one chance is being given and gave us keys of our vehicle. We being scared and to save our life ran away in our vehicle and after reaching home, told everything to our family and on dated 5.8.2023, in evening I reached Police Station Sector 39, Chandigarh and there I saw the person who on dated 4.8.2023 was wearing Khaki pent, Brown Shoes and light yellow colour shirt and the same person was on police uniform whose name I came to know was Naveen Phogat Rank Sub Inspector. These all persons by showing us police fear have conspired kidnapped us and kept us moving in different sectors and took Rs.1 Crore Rs.1 lacs alongwith documents forcibly from us and committed cheating by threatening us to kill and falsely implicating in*

*case. I can recognized the persons by seeing them. Legal Action be taken against them. Sd/- Sanjay Goyal. Mob.NO.9814586552 dated 6.8.2023.”*

6. In the facts and circumstances as enumerated hereinabove, moreso since the investigation in the case in hand is complete, further incarceration of the petitioner would not serve any useful purpose as the trial would take considerable time to conclude. Therefore, this Court deems it fit to grant the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

09.04.2024  
Vinay

(MANJARI NEHRU KAUL)  
JUDGE

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