IN THE COURT OF DR. AJIT ATRI, UID NO. PB0440, ADDITIONAL SESSIONS JUDGE, LUDHIANA

Case Details	
Case Type	BA
Case Reg. No.	BA/13225/2022
Case Code No.	PBLD01-021926-2022
Filing No.	BA/21907/2022
Date of Decision	14.10.2022

Hardeep Singh son of S. Laimber Singh resident of House No.29, Jhugian Kadra, P.S. Koom Kalan, District Ludhiana owner of M/s Shiv Kirpa Road Line, Transport Nagar, Ludhiana.

… … Applicant.

Versus

State of Punjab

… … Respondent.

First application under section 439 Cr.P.C. for grant of regular bail to applicant in case FIR No. 138 dated 24.09.2022 under sections 420, 467, 468, 470, 471, 474, 34, 120-B IPC Police Station Dugri, District Police Commissionerate, Ludhiana.

Argued by - Mr. Bikram Singh Sidhu, Advocate for the applicant.
Mr. Amandeep Singh Adiwal, Additional PP for the State.

ORDER:

1- This order of mine shall dispose of bail application under Section 439 Cr.P.C for the grant of regular bail to the applicant.

2- Notice in the bail application was issued and the State has produced the record. Reply has not been filed, but the ld. Additional PP placed on the file status report received from the concerned police station.

3- It has been argued by the ld. counsel for the applicant-accused that the applicant has been falsely implicated in this case. There is no specific allegation against him in the FIR, which is registered without verification of all the facts. Nothing was recovered from the physical possession of the applicant. He has neither forged or fabricated any document nor he used or misused any such document to cause wrongful gain to himself or to cause wrongful loss to the state. The case is still under investigation and nothing has come on the record against the applicant during the investigation till date. There is no other evidence or person who may allege that the bills of any firm were used by the applicant. In-fact, the applicant is running transport business and he used to charge his freight charges from the customer against proper receipts. He is not having any link or concern with any other act. It is not the duty of the applicant to check whether the owner of the goods, which are to be transported, has paid the tax or not, rather the applicant is supposed to transport the goods and to take hire charges. It is the owner of the goods who is responsible for the payment of the tax and issue the bills. The applicant is in custody since 24.09.2022. It will take some time for the presentation of challan and trial to start and conclude. No useful purpose would be served by keeping the applicant behind the bars for indefinite period.

4- On the other hand, the ld. Additional P.P. for the State has argued that there are specific allegations against the applicant in the FIR. He has been specifically named in the FIR. He is the main accused in this case. He used the invoices having same numbers, amount etc. for the goods being transported in different vehicles in order to evade the tax and by doing so, the applicant has caused huge financial loss to the state exchequer. The applicant has forged and fabricated the documents in order to defraud the government and with intention to cause wrongful gain to himself and wrongful loss to the state. The applicant was transporting the goods from two firms with the same bill. Recovery has also been effected in the case. The inquiry in this case is being conducted by the ACP South Ludhiana and the physical verification of the goods loaded in vehicles in question is also being done, which will take one week to complete. In case, the is granted bail, he might abscond to avoid the trial or commit similar offence again. Thus, in the light of the seriousness of allegations leveled, no case is made out for the release of the applicant on regular bail.

However, the applicant is not involved in any other case.

5- I have heard the ld. counsel for the applicant, ld. Additional PP for the State and have also gone through the file.

6- As per version of the prosecution case, the FIR has been registered on the basis of complaint made by complainant Lakhvir Singh Chahal, State Tax Officer, Mobile Wing, Ludhiana, wherein it has been alleged that on 16.09.2022, on the basis of an intelligence and secret information received through an informer five vehicles of M/s Shiv Kirpa Road Lines Ludhiana, M/s S R Road Lines Ludhiana bearing registration no. PB-10-HQ-5349 being driven by Sukhwinder Singh, vehicle no. PB-10-HQ-4731 being driven by Jaswinder Singh, vehicle no. PB-10-HT-3762 being driven by Angrej Singh, vehicle no. PB-10-HE-0823 being driven by Jasbir Singh and vehicle no. PB-10-HT-3894 being driven by Vikram Singh were intercepted by conducting a joint operation by three mobile wings under the supervision of the Director Investigation Punjab in the area of Mandi Gobindgarh, Sahnewal Transport Nagar Ludhiana, GT Road Rajpura and GT Road Shambhu respectively. Both the said transport companies are being run and operated by Hardeep Singh. The vehicles were carrying hosiery and readymade garments manufactured by the local manufacturers of Ludhiana. As per the information and the preliminary investigation/inquiry conducted by the officials of the mobile wings and after scrutinizing the invoices and GRs produced by the drivers-cum-in charge of the goods in the aforesaid vehicles, drivers namely Sukhwinder Singh, Jaswinder Singh, Angrej Singh, Jasbir Singh and Vikram Singh were found transporting the goods by enclosing invoices of registered taxpayers of Ludhiana and most of the invoices were having value less than 50K which may be deliberately and dishonestly lowered from the prescribed limit to avoid the generation of e-way bills and to cause loss to the state exchequer after hatching a conspiracy. The details of the vehicles and officials who recovered the invoices are Sumit Thapar STO MW Ludhiana vehicle no. PB-10-HQ-5349 number of invoices 37, Lakhvir Singh Chahal STO MW Ludhiana PB-10-HQ-4731 number of invoices 35 and PB-10-HT-3762 number of invoices 38, Satwant Tiwana STO

MW Ludhiana PB-10-HE-0823 number of invoices 47 and Saurabh Singla STO MW Ludhiana PB-10-HT-3894 number of invoices 41. During the course of checking and investigation of documents produced by the drivers-cum- in charge of all the vehicles, the complainant found that the invoices, which were in the possession of drivers of the transport company, were of the same date and were also having same serial numbers, amount as well as quantity of goods in different vehicles for transporting the goods and all these invoices were having separate GRs which shows to be created/prepared as per the directions of Hardeep Singh to defraud the revenue of state exchequer. Total 198 invoices and GRs were produced by the drivers and 33 invoices were used repeatedly in the aforesaid vehicles. The details of the consignors/suppliers of the goods were also supplied to the Investigating Agency. It has also been alleged by the complainant that the consignees and transports have connived with each others in order to evade the tax with clear intention by submitting false documents and passing over the goods to other taxable persons in the outward supplies made by them. Hence, the complainant requested to initiate legal action against the accused.

7- The factum of involvement of the applicant in the alleged crime and his connivance with the co-accused shall be matter of evidence. Despite the fact that this FIR had been registered on 24.09.2022, it is the case of the prosecution that the investigation is still going on and the articles loaded in the vehicles in question are yet to be inspected and the owner of the goods have not been arrested in the case. The case is based upon the documentary evidence. It will take sometime for the investigation to complete and the trial to start and complete. The alleged recovery has already been effected. The applicant is in custody since 24.09.2022. The applicant is not the person who issued the bill or was to pay the tax. He is only the transporter. It is not that the applicant was to issue any bill. The owner of the goods who issue the bill will be the direct beneficiary of the evasion of the tax rather than the transporter. No useful purpose will be served by keeping the applicant behind the bars for indefinite period. No other case of similar nature of any other case has been brought to the notice of this Court.

8- In view of the above discussion, without expressing any opinion on the merits of this case, at this stage, taking into consideration the custody period of the applicant, the application is allowed. The applicant is ordered to be released on bail on his furnishing personal bond and surety bonds to the satisfaction of the ld. Area Magistrate/Duty Magistrate. The copy of the order be also sent to the ld. Area Magistrate/Duty Magistrate. Record be returned and file be consigned to the record after due compliance.

(Dr. Ajit Atri UID No. PB0440)
Additional Sessions Judge,
Ludhiana.

Pronounced in open court
14.10.2022.

(Deepak Sharma)
Stenographer Gr.II

CIS No. BA/13225/2022 CNR No. PBLD01-021926-2022

Hardeep Singh Vs. State of Punjab

Argued by - Mr. Bikram Singh Sidhu, Advocate for the applicant.
Mr. Amandeep Singh Adiwal, Additional PP for the State.

The report of Ahlmad has been received and perused. The police record has also been produced and perused. The ld. Additional PP placed on the file status report received from the concerned police station.

Arguments heard. Vide separate detailed order of even date, the bail application of the applicant has been allowed. The copy of the order be sent to the ld. Area Magistrate/Duty Magistrate. Record be returned and file be consigned to the record after due compliance.

(Dr. Ajit Atri UID No. PB0440)
Additional Sessions Judge,
Ludhiana.

Pronounced in open court
14.10.2022

(Deepak Sharma)
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