

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M No.19050 of 2019
Decided on: 02.05.2019**

Mohammad Mushetkin

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.63 dated 19.03.2019, for offence punishable under Sections 420, 188 of the Indian Penal Code, 1860 (in short 'IPC') and 25/54/59 of the Arms Act, registered at Police Station City Rajpura.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered on an information that one Kanwarjeet Singh, Mohammad Mushetkin (the present petitioner) and Baldev Kumar, are working in exchange of old currency notes of Rs.500/Rs.1000/-, stopped at the time of demonetization in the year 2016 and Kanwarjeet Singh is also having an illegal weapon. It is further submitted that the police on receiving such information, registered an FIR under Section 420 IPC and 25/54/59 of the Arms Act read with the provisions of The Specified Bank Act, 2017. Thereafter, the police laid a naka and stopped the car bearing registration No.HR-

01-AA-8146, in which 03 persons (including the petitioner) were traveling and they were apprehended and on search of the said car, the banned currency notes of Rs.1000/- of a value of Rs.85 lacs and Rs.500/- for a value of Rs.15 lacs were recovered from the seat, on which the petitioner was sitting and the currency notes in the denomination of Rs.2000/- total of Rs.1.54 lac was recovered from the dashboard of the car and a country-made pistol along with 13 live cartridges was also recovered from Kanwarjeet Singh.

Counsel for the petitioner has further submitted that though the denomination of Rs.500/- and Rs.1000/- which were in circulation, was stopped on 08.11.2016, after the demonetization order passed by the Government of India and The Specified Bank Notes (Cessation of Liabilities) Act, 2017 was incorporated. Counsel for the petitioner has referred to the Act wherein as per Section 2(1)(e) “specified bank notes” means a bank note of the denominational value of Rs.500/- or Rs.1000/- of the series existing on or before 08.11.2016.

Counsel for the petitioner has further argued that as per Sections 4 and 5 of this Act, there is a prohibition for holding, transferring or receiving any specified bank notes knowingly or voluntarily, after expiry of grace period. It is also submitted that as per Sections 6 and 7 of the Act, the penalties are provided for contravening the Sections 4 and 5 of the Act and the same is only in the shape of fine and therefore, it will be debatable issue to be decided during the course of trial whether Sections 420/188 IPC is made out in the present case or not.

Counsel for the petitioner has also submitted that the

petitioner is the first offender and he is in custody since 19.03.2019 and the recovery of weapon is effected from his co-accused – Kanwarjeet Singh.

Counsel for the State, on instructions from ASI Bajinder Singh, has not disputed the factual aspect of the case but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is the first offender; he is in custody since 19.03.2019; the recovery of weapon has been effected from the co-accused – Kanwarjeet Singh and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

02.05.2019

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