

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209 - CRM-M-25597-2020 (O&M)

Date of Decision: 06.11.2020

Gulab Nath	VS.	... Petitioner
State of Haryana		... Respondent

209 - CRM-M-29137-2020 (O&M)

Date of Decision: 06.11.2020

Bikkar @ Bikram	VS.	... Petitioner
State of Haryana		... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. GS Sandhu, Advocate;
Mr. Amit Choudhary, Advocate for the petitioners

Mr. Rajiv Goel, DAG Haryana

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

This order shall dispose of the above-cited two criminal miscellaneous petitions, filed by the petitioners Gulab Nath (aged 35 years) and Bikkar @ Bikram (aged 26 years), *inter alia*, praying for grant of regular bail in case FIR No.260 dated 03.11.2019 under Sections 408 IPC (Section 341/342/365/395 IPC and Sections 25 of Arms Act added later on), registered at PS Sadar Tohana, District Fatehabad. CRM-M-25597-2020 is being treated as the lead case for the purposes of passing order.

Learned counsel for the petitioners by making reference to the contents of the FIR submits that in the FIR, the petitioners have not been named. It is submitted that the complainant later vide DDR No.28 dated 19.02.2020 had made a different statement. The petitioner Gulab Nath was arrested on 22.02.2020 and Bikkar @ Bikram was arrested on 16.04.2020.

They submit that the investigation is complete and no useful purpose would be served by keeping the petitioners behind the bars.

Learned State counsel on instructions from ASI Kapil Devi submits that the investigation is complete; challan was presented on 16.05.2020 and there are total of 23 witness and none have been examined till date. He further submits that there is one more FIR against petitioner Gulab Nath whereas against petitioner Bikkar @ Bikram, there are 8 cases or even more. He therefore opposed granting of bail to the petitioners and submits that in case bail is granted to the petitioner(s), it is very likely that they will again indulge the same crime.

Learned counsel for Bikkar @ Bikram submits that out of the above referred cases, in 7 FIRs the petitioner has been acquitted.

Faced with this, learned counsel submits that in order to show their *bona fide*, the petitioners and their family members have offered to deposit Bank guarantee/FDR of Rs.50,000/- each in their own name. In addition, they also offer to deposit bank guarantee/original papers of the property worth Rs.1.5 lacs each as security which shall remain alive till the decision by the trial court, before the Duty Magistrate/trial Court, with an undertaking that they would neither alienate the said property nor create any encumbrance on the same. The petitioners would not involve themselves in any other case and if found involved and held guilty in any other subsequent case (today onwards), the above said bank guarantees/properties can be confiscated and the amount so realized be forfeited and deposited in the Government Treasury.

Counsel then submits that due to the present COVID-19 situation, detention of the petitioners in jail would be dangerous to their life and also keeping in view the fact that trial is likely to take some time, the

petitioners may be granted concession of regular bail.

In view of the facts noticed above, the present situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioners on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to their furnishing bail bonds/surety bonds.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety which the trial court may further require the petitioners to furnish as it deems appropriate, in pursuance to the offer made by their counsel, the petitioners, within one month from date of their release, would give an undertaking that they would not involve themselves in any other case after today. In order to show their *bona fides*, the petitioners shall deposit Bank guarantee/FDR of Rs.50,000/- each in their own name. In addition, they will also deposit bank guarantee/original papers of the property worth Rs.1.5 lacs each as security which shall remain alive till the decision by the trial court, with the trial Court/Duty Magistrate with a further undertaking not to create any encumbrance, alienate or sell the said properties during trial. In the undertaking, it will also be incorporated that in case the petitioner(s) is found involved in any other case and is/are held guilty (after from today), the bank guarantee/FDR/property(ies) shall be confiscated and the amount shall be liable to be forfeited and the same be deposited in the Government Treasury. The same shall be without prejudice to defence of the petitioners before the trial Court.

However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

The petition stands disposed of accordingly.

06.11.2020

vishal shonkar

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No