

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

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CRM-M No.27043 of 2020

Date of Decision: September 16th, 2020

Ashok Kumar and another

...Petitioners

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE
MASIH**

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, Deputy Advocate General,
Haryana.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioners in FIR No.51 dated 24.02.2019 registered under Sections 379-B, 396, 302, 201 IPC at Police Station Nangal Chaudhary, District Mohindergarh.

It is the contention of learned counsel for the petitioners that the petitioners are not named in the FIR and they have been roped in merely on the basis of hearsay evidence, which is based upon supplementary statement of the complainant. He contends that Mahender, a co-accused has been granted the concession of bail by this Court vide order dated 18.08.2020 (Annexure P-11) in CRM-M No.54497 of 2019. Petitioners are better placed than Mahender, the co-accused. This has been asserted by the counsel on the ground that the mobile, which was recovered from co-accused Mahender, is alleged to have been used in the recording of the incident. Counsel thus contends

that the petitioners being in custody since 04.03.2019, with the trial not likely to conclude in near future and all witnesses except three official witnesses remaining, the petitioners be granted the concession of bail.

Counsel for the State, on the other hand, as per the instructions received by her from ASI Raj Karan, Police Station Nangal Chaudhary, District Mohindergarh, states that the recovery of the mobile of deceased-Kailash Chand has been effected from the petitioners. To this, a question has arisen as to whether the recovery has been effected from Ashok Kumar or Gautam @ Shampoo but the counsel for the State is unable to respond to the said query as the information, which she has received, has been communicated to the Court. She, however, contends that the petitioners being accused for having committed a heinous crime, could not be granted the concession of bail.

I have considered the submissions made by the counsel for the parties and have, with their assistance, gone through the case file.

The factum with regard to the petitioners being not named in the FIR and no recovery having been effected from the petitioners except for the alleged recovery of mobile phone of deceased-Kailash Chand but from whom, the said aspect out of the two petitioners, is not verifiable, the fact remains that the trial is not proceeding because of the prevailing pandemic, although except for three prosecution witnesses, all evidence has been led by the prosecution. The fact that the three witnesses are police officials, the chances of the petitioner influencing them in any manner, do not arise. Keeping in view the custody period of the petitioners, the trial not proceeding further because of the prevailing

pandemic and co-accused, who is similarly placed as the petitioners, has been granted the concession of bail vide order dated 18.08.2020 passed by this Court, the present petition is allowed.

Petitioners are directed to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Narnaul.

Any observations made hereinabove are for the purpose of disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

September 16th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No