

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-13467-2021 (O&M)
Date of decision:27.05.2021

Gorakh Nath alias Malli

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Puneet Gupta, Advocate
for the applicant-petitioner.

Mr. Saurav Khurana, DAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-11104-2021

Application is allowed.

The corrected copy of the order dated 22.02.2021 passed by
learned Additional Sessions Judge, Amritsar, filed by the counsel for the
petitioner as Annexure P-2A, in compliance of the order dated 31.03.2021
passed by this Court, is taken on record.

CRM-14238-2021

For the reason given in the application, it is allowed.

The date of hearing of the main petition is advanced to today and
is ordered to be taken on board today itself.

CRM-M-13467-2021

Instant petition has been filed under Section 439 of Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.09 dated 07.01.2021 under Section 395 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 (Sections 412, 201 and 120-B of IPC, 1860 were added later on), registered at Police Station Civil Lines, District Amritsar City.

As per the version of the prosecution, FIR (Annexure P-1) has been registered on the complaint of Dr. Shivangi Arora, a practising Dentist, with the allegation that four unknown persons armed with pistol and datar entered in her residence where she was running a clinic, gagged and tied her and her helper. After detaining her family members, they threatened them, broke open the almirahas and looted jewellery and some other documents. Another person who was a part of the group was on a watch outside.

Counsel for the petitioner submits that neither the petitioner was a member of the gang nor there are any allegations of dacoity against him. It is his argument that the allegations pertaining to Section 395 of the Indian Penal Code, 1860 and offences under the Arms Act are qua the co-accused. According to the counsel, the sole allegation against the petitioner, who is a goldsmith, is that he was allegedly given the stolen gold ornaments for melting and was paid for the same. Counsel submits that the petitioner is in incarceration since 12.01.2021, investigation is complete, challan has been presented and the petitioner, who is no longer required for

custodian interrogation, deserves to be released on bail.

Opposing the petition, State counsel upon instructions from ASI Manish Kumar, submits that a sum of Rs.5,000/-, which was paid to the petitioner, for melting the ornaments has been recovered from him. As per his instructions, the challan has been presented on 10.04.2021, wherein 31 witnesses have been named, but the charge is yet to be framed.

I have considered the rival submissions of the parties.

Keeping in view the role allegedly played by the petitioner in the crime, period of incarceration of the petitioner, nature of allegations, gravity of offences and the fact that the trial is likely to take time due to spread of contagion, no useful purpose would be served by keeping the petitioners behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner-Gorakh Nath alias Malli is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

27.05.2021

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No