

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-21171 of 2021
Date of decision:07.07.2021

Vishnu Pandey

... Petitioner

Vs.

State of Haryana

... Respondent

CRM-M-21508 of 2021

Dharambir

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Deepkaran Dalal, Advocate
for the petitioner in CRM-M-21171 of 2021.

Mr. Ashit Malik, Advocate
for the petitioner in CRM-M-21508 of 2021.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

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

This order will dispose of two petitions i.e. CRM-M-21171 of 2021 titled as 'Vishnu Pandey Vs. State of Haryana' and CRM-M-21508 of

2021 titled as 'Dharambir Vs. State of Haryana'.

The petitioners are seeking regular bail in case FIR No.202 dated 16.12.2020 registered under Sections 364-A, 201, 120-B of Indian Penal Code, 1860 (for short “IPC”) at Police Station Sector 65, Gurugram. However, Section 328 of IPC has been added later on.

As per the version of the prosecution, FIR was registered on the complaint of Balraj on the allegation that his minor son, Jatin, has been kidnapped and he has received extortion call from a mobile.

Counsel representing the petitioners have urged that allegation against Vishnu Pandey (petitioner in CRM-M-21171 of 2021) is that he had purchased a SIM card on his name that he had handed over to the main accused Jagdish through Dharambir (petitioner in CRM-M-21508 of 2021), which was then used by main accused, Jagdish and Mohit Bhola, to make the extortion call. Counsel argue that no recovery has been effected from the petitioners nor is there any accusation regarding any role having been played by them in the kidnapping and poisoning of the child or destroying any evidence. Counsel contend that the petitioners are young boys with clean antecedents, investigation qua them is complete, challan has been presented and they are in incarceration since 17.12.2020. It is the submission of the counsel that the petitioners are no longer required for custodial interrogation as the final report under Section 173 Cr.P.C, has been presented, therefore, they deserve to be enlarged on bail during the pendency of the trial.

Per contra, State counsel upon instructions from ASI Mangal Singh has opposed the petition and argues that the kidnapped boy was recovered from the custody of co-accused Jagdish and an unnamed co-accused (who it later transpired was Mohit Bhola) on the basis of the disclosure statement made by Dharambir and co-accused. He further submits that accused Vishnu Pandey had received a sum of Rs.5,000/- for purchasing a SIM card, though neither the SIM nor money could be recovered. On the basis of further instructions, he submits that Test Identification Parade has been conducted and the victim has duly identified co-accused Jagdish and Mohit Bhola. According to him, challan has been presented on 19.02.2021, charge has been framed on 01.04.2021 and the trial is fixed for examination of the witnesses of the prosecution.

Having considered the submissions of the parties, this Court is of the view that complicity of the petitioners in the offence is debatable.

Keeping in view the above facts and circumstances, period of incarceration of the petitioners, nature of allegation, gravity of offence and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioners behind bars any further.

Without commenting on the merits of the case, the petition is allowed and the petitioners are ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is further 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

July 07, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes