

CRM-39288-2021 in
CRM-33400-2021& CRM-19760-2021 in/&
CRM-M-26613-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-39288-2021;
CRM-33400-2021;
CRM-19760-2021 in/&
CRM-M-26613-2021
Date of Decision : 26.11.2021

Mohd. Kasib @ Mohd Kashif and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rahul Rampal, Advocate for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral

CRM-39288-2021

As prayed for, application is allowed.

Annexure P/13 is taken on record.

CRM-33400-2021

As prayed for, application is allowed.

Annexures P/10 to P/12 are taken on record.

CRM-19760-2021

As prayed for, application is allowed.

CRM-M-26613-2021

The present petition has been filed under Section 439 Cr.P.C.

for the grant of regular bail to the petitioners in respect of FIR No.85 dated

30.07.2019 registered under Section 15 of the Narcotic Drugs and

Psychotropic Substances Act, 1985 at Police Station City-II Malerkotla, District Sangrur.

Learned counsel for the petitioners argues that the assertions of the petitioners that they were wrongly involved in the present case and were arrested while in police station after being called at the police station stands proved keeping in view the testimony of one of the witness, who is a police official and was posted in the police station, where the present FIR has been registered. Learned counsel for the petitioners submits that PW3 ASI Ramdass had given call to the petitioners at around 2.30 p.m. on the date of the registration of an FIR and the petitioners were called to the police station, which fact has been admitted by the said witness after he was confronted with the voice recording of the call, wherein supposedly the petitioners were called to the police station. Learned counsel for the petitioners further submits that the said factum prima facie demolishes the allegations alleged against the petitioners that they were arrested from somewhere else rather than from the concerned police station where they went upon being called by ASI Ramdass, hence, keeping in view the above stated facts coupled with the fact that the petitioners are already behind the bars for the last approximately two and a half years, they may kindly be granted the benefit of regular bail.

Learned State counsel concedes the factum that a prosecution witness No.3, who is a police official and was Munshi of a concerned police station, where the FIR was registered, has admitted certain facts but, the same does not show that the allegations alleged against the petitioners are incorrect or the petitioners were not arrested from the spot as alleged in the

FIR alongwith the contraband. Learned State counsel submits that mere statement of one of the prosecution witness can not be treated as evidence so as to exonerate the petitioners of the allegations alleged or to say that the allegations alleged against the petitioners are false as the said findings are to be recorded on the basis of the complete evidence, which will come on record during trial.

Learned counsel for the petitioner further submits that these facts are to be seen in the light of the another fact that the petitioner had approached this Court seeking protection on the ground that he is likely to be involved by the police in some other case, which case was filed much prior to the registration of the present case.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The facts and circumstances, which have been noticed hereinbefore, shows some discrepancies between the allegations alleged against the petitioners in the FIR and the testimonies, which have come on record so far. Though, the innocence or guilt of the petitioners is to be proved on the basis of the complete evidence, which will come on record during trial, but, the benefit of the said discrepancies, which have come as of now are to be considered only for the decision, whether the petitioners are entitled for regular bail or not, and not for deciding the guilt or innocence of the petitioners. Keeping in view the facts stated hereinbefore including the testimony of the witnesses, which have already come on record coupled with the fact that the petitioners are behind the bars for the last approximately two and a half years and learned counsel for the

petitioners has undertaken before this Court that the petitioners will maintain good conduct and will not obstruct the trial or influence the witnesses, whose statements are yet to be recorded, in any manner, the petitioners have made out a case for the grant of benefit of regular bail. In case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders,

Without commenting upon the merits of the case, it is directed that the petitioners be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

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

November 26, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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