

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**
(210)

CRM-M-25783-2020
Date of decision:- 09.09.2021

Gurnam Singh and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Neeraj Madaan, Advocate for the petitioners.

Mr. R.S.Thind, DAG, Punjab.

Mr. K.S.Mamrat, Advocate for complainant.

...
SUVIR SEHGAL, J. (ORAL)

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

Petitioners have filed the instant petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.71 dated 15.05.2020 under Sections 379-B, 341, 323, 148 and 149 of the Indian Penal Code, 1860 (Secion 395 IPC was added later on), registered at Police Station City Jalalabad, District Fazilka.

As per the prosecution case, FIR (Annexure P-1) has been registered on the complaint of HC, Fouja Singh on the allegation that on 14.05.2020 when he was returning to his home on his car, he was waylaid by five persons on motorcycles, who were armed with weapons and they inflicted injuries upon him and snatched Rs.2000/- and removed his gold rings. All the five persons including both the petitioners have been named in the FIR.

Counsel for the petitioner submits that petitioner No.2 was ordered to be released on regular bail by this court vide order dated 09.11.2020. In so far as petitioner No.1 is concerned, counsel submits that he has been falsely framed, as he had submitted a representation dated 19.03.2020, Annexure P-4, alleging that SHO, Police Station-City, Jalalabad along with 4-5 police officials had forcibly trespassed into his house and they had threatened to involve him in criminal cases. Counsel submits that the dispute between the parties has now been settled and a petition (CRM-7765-2021) has been filed for quashing of the FIR on the basis of a compromise in which the statements of the parties have been recorded and the petition is pending before this Court for 16.12.2021. He has placed reliance on the order dated 17.08.2020, Annexure P-6, passed in CRM-M-17005-2020, whereby, co-accused, Rajinder Singh, has been released on bail by this Court. He submits that though petitioner No.1 is involved in some other cases, but in so far as the instant FIR is concerned, he is no longer required for custodial interrogation as the challan has been presented and he deserves to be enlarged on bail.

Opposing the petition, learned State counsel, upon instructions from ASI Makhan Singh, submits that petitioner No.1 is involved in as many as ten cases, including the present one, and has been convicted in three FIRs. He submit that the said petitioner is a habitual offender and does not deserve the concession of regular bail. Upon further instructions, he submits that petitioner No.1 is in custody since 18.05.2020, challan has been presented on 25.07.2020, charge has been framed on 19.01.2021,

though the prosecution evidence is yet to start.

Mr. K.S.Mamrat, Advocate has appeared on behalf of the complainant and has admitted the factum of compromise and the pendency of the quashing petition.

I have considered the respective submissions of counsel for the parties.

In view of the fact that the dispute between the parties has been settled and the petitioner No.1 is in custody for the last more than one year and three months, this Court is *prima-facie* of the view that further incarceration of the petitioner No.1 is not justified.

Without commenting upon the merits and de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner No.1, namely, Gurnam Singh, is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

While being released on bail, the petitioner No.1 shall furnish an undertaking that henceforth he will not indulge in any criminal activity. In case, he violates the undertaking, it shall be open to the prosecution to seek cancellation of bail.

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

09.09.2021
Kamal

(SUVIR SEHGAL)
JUDGE

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