

**CRM-M-39448-2021 and
CRM-M-41660-2021**

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

**CRM-M-39448-2021
Date of Decision: 15.11.2021**

(I)

Kuldeep @ J.P.

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CRM-M-41660-2021

(II)

Naresh Kumar

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashwani Gaur, Advocate, for the petitioner
in CRM-M-39448-2021.

Mr. R.K. Doon, Advocate, for
Mr. Robin Lohan, Advocate, for the petitioner
in CRM-M-41660-2021.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

These two petitions are taken up together for final disposal.

Both the petitions have been filed under Section 439 of the
Code of Criminal Procedure for the grant of regular bail to the petitioners
in FIR No.396 dated 21.07.2021, under Section 120-B/379/ 420/ 467/471/

483 IPC, registered at Police Station Kaithal City, District Kaithal as both the petitions arise out of the same FIR.

The learned counsels for the petitioners in both the cases have submitted that it is a case where the petitioners are in custody since 21.07.2021 and the investigation of the case is already complete and the police has already presented the challan before the competent Court under Section 173 Cr.P.C. The learned counsels submitted that as per the allegations in the FIR the police party had intercepted and caught hold of two cars which were allegedly stolen by Gurmeet and Shubham and the aforesaid two persons used to steal the cars by breaking open the locks with the help of another accused namely Chetan. The learned counsels further submitted that it was on the disclosure statement of Gurmeet that the present two petitioners have been nominated in the present case on the ground that since they are scrap dealers and the stolen vehicles were taken to the scrap dealers and sold to them and, therefore, the petitioners were also arrested. The learned counsels further submitted that petitioner namely, Kuldeep @ J.P. is doing scrap business for a long time and the other petitioner namely Naresh Kumar is only his employee and they have got a number of cars and other vehicles in their garage and they deal with this business in a lawful manner and there is nothing on record to show that the stolen cars are co-related with those cars which were allegedly recovered from the petitioners. The learned counsels submitted that the petitioners are not involved in any other case and the investigation of the case is already complete and no recovery is to be effected from the petitioners now and, therefore, no useful purpose would be served in case the petitioners are kept

in custody since the trial of the case would take long time and have therefore prayed for the grant of regular bail.

On the other hand, Mr. Zorawar Singh Chauhan, learned Deputy Advocate General, Haryana has submitted that so far the custody of the petitioners is concerned, the same is not in dispute and it is also not in dispute that the petitioners are not involved in any other case. He has however submitted that total 5 cars were recovered from both the petitioners in the form of open cars and the chassis numbers were mismatching. He submitted that since it was a case of theft of cars and further selling to the scrap dealers, the petitioners do not deserve the concession of regular bail.

Replying to the contentions raised by the learned counsel for the State, it has been further argued by the learned counsel for the petitioners that the entire FIR is a concocted story because during the investigation the other co-accused namely, Shubham and Chetan have already been found as innocent by the police and so far as accused Gurmeet is concerned, he has already died. The aforesaid factual position has not been disputed by the learned State counsel. It has been clarified by the learned State counsel that the aforesaid two main accused have been exonerated in the present FIR but there are other FIRs against them.

On a query being put to the learned State counsel as to whether there is any sufficient material available on the record to show that the five cars which were recovered from the petitioners who were dealing in scrap business co-related with the cars which were allegedly stolen or not. The learned State counsel on instructions from SI Kashmir Singh has submitted that there is no such link available but there was a mismatching of the

chassis numbers.

I have heard the learned counsel for the parties.

The custody of the petitioner is not in dispute. It is also not in dispute that the petitioners are not involved in any other case. It is further not in dispute that the co-accused namely, Shubham and Chetan against whom the allegation of theft is levelled have been exonerated by the police in the present FIR. The co-relating of the five cars allegedly recovered from the petitioners with the stolen cars is also debatable at this stage. Furthermore it is not the case of the State that in case the petitioners are released on bail, then they may influence any witness or may tamper with evidence or may flee from justice.

Therefore, without commenting on the merits of the case and considering the totality of circumstance, both the petitions are allowed. The petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

15.11.2021
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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