

CRM-M-41358-2021 (O&M) &
other connected cases

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

(1.)

CRM-M-41358-2021 (O&M)
Date of Decision:-09.12.2021.

Goldy

.....Petitioner

Versus

State of Punjab

.....Respondent

(2.)

CRM-M-40739-2021 (O&M)

Ravi Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

(3.)

CRM-M-40627-2021 (O&M)

Gurpreet Singh @ Gopi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Hema Sharma, Advocate for the petitioner(s).

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Mr. Sukhbeer Singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

The present order shall dispose of the above three petitions filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioners in FIR No.166 dated 02.12.2020, under Sections 457, 380 and 411 of IPC, registered at Police Station Mallanwala, District Ferozepur (Punjab).

CRM-M-41358-2021 has been filed by Goldy S/o Satpal, CRM-M-40739-2021 has been filed by Ravi Kumar, S/o Raj Kumar and CRM-M-40627-2021 has been filed by Gurpreet Singh @ Gopi, S/o Surjit Singh.

Learned counsel for the petitioner, at the very outset, submits that since the recovery has been effected from Gurpreet Singh @ Gopi as per the version of the prosecution, thus, CRM-M-40627-2021 filed by Gurpreet Singh @ Gopi be dismissed as withdrawn.

Keeping in view the statement made by the learned counsel for the petitioner(s), CRM-M-40627-2021 filed by Gurpreet Singh @ Gopi is dismissed as withdrawn.

With respect to the petitions filed by Goldy and Ravi Kumar, it has been submitted that both these petitioners were not named in the FIR and they were named for the first time in the supplementary statement which was recorded after a period of 28 days i.e. on 30.12.2020. It is further argued that no recovery has been effected from Goldy and Ravi Kumar and the recovery has been made from the co-accused Gurpreet

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Singh @ Gopi. It is submitted that the petitioners Goldy and Ravi Kumar have been in custody since 14.01.2021 and the challan in the present case has already been presented and there are 18 witnesses, none of whom have been examined and, thus, the trial is likely to take time, therefore, concession of regular bail is prayed for the above-stated two petitioners.

Learned State counsel, on instructions from ASI Joginder Singh, has opposed the petitions for grant of regular bail and has submitted that both these petitioners are involved in a large number of other cases and they are not even on bail in the said cases. It is, however, not disputed that the recovery has been effected from the co-accused Gurpreet Singh @ Gopi and not Goldy and Ravi Kumar.

Learned counsel for the petitioner(s), in rebuttal, has relied upon a judgment passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as **“Maulana Mohd. Amir Rashadi Vs. State of U.P. and others”**, reported as **2012 (2) SCC 382**. Reference has been made to the relevant portion of paragraph 6 of the said judgment, which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the above-said facts and circumstances,

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moreso, the fact that the petitioners Goldy and Ravi Kumar were not named in the FIR and were only named after a period of 28 days in the supplementary statement on 30.12.2020 and no recovery has been effected from them and they have been custody since 14.01.2021 and the challan has been presented in this case and there are 18 witnesses, none of whom has been examined and, thus, the trial is likely to take time moreso, in view of the present pandemic and also in view of the judgment passed in the case of Maulana (supra), CRM-M-41358-2021 and CRM-M-40739-2021 deserve to be allowed.

Accordingly, CRM-M-41358-2021 and CRM-M-40739-2021 are allowed and the petitioners namely, Goldy and Ravi Kumar are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to them not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

Since the main cases have been decided, pending miscellaneous applications, if any, stand disposed of accordingly.

(VIKAS BAHL)
JUDGE

December 09, 2021.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No