

CRM-M-41489-2021

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

(212)

CRM-M-41489-2021.
Date of Decision:-01.12.2021.

Aash Mohammad and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gurinder Singh Goraya, Advocate for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail to the petitioners in case FIR No.115 dated 26.06.2020 under Sections 136, 137 of the Electricity Act, 2006, registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner has submitted that in the present case, case of the prosecution was that on the intervening night of 25.06.2020, some unknown persons had committed theft of a transformer and other articles. It is further the case of the prosecution that while the petitioners were being interrogated in another FIR bearing No.139 of 2020 then the petitioners and the other co-accused had disclosed about the commission of the theft of the transformer in the present case and also in

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the other cases and ultimately, recovery was effected from the petitioner and the co-accused.

Learned counsel for the petitioners has submitted that the petitioners have been in custody since 04.02.2021 and in the present case, the challan has already been presented and there are as many as 16 witnesses, none of whom have been examined and, thus, the trial is likely to take time moreso, in view of the present pandemic and it is also stated that the recovery has already been effected in the present case and, thus, no useful purpose will be served by keeping the petitioners in custody. Learned counsel for the petitioners has further relied upon the order dated 26.11.2021 passed by a Co-ordinate Bench of this Court in CRM-M-41997-2021 titled as Aash Mohammad and another Vs. State of Haryana.

Learned counsel, on instructions from ASI Jasbeer Singh, has opposed the present bail application and has submitted that the petitioners are habitual offenders and there are as many as 32 cases against the present petitioners and out of which in 27 cases, he has been granted bail. As far as the period of custody and the factum of the order passed by the Co-ordinate Bench of this Court is concerned, the same has not been disputed.

Keeping in view the above-said facts and circumstances moreso, the fact that the petitioners have been in custody since 04.02.2021 and there are 16 witnesses, none of whom have been examined and the fact that the petitioner was not initially named in the FIR and has been implicated in the case while being interrogated in another FIR and also the fact that recovery has already been effected in the present case and a Co-ordinate Bench of this Court in the case of the petitioners in another FIR i.e. FIR No.427 dated 28.09.2020, after considering the similar facts as are

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arisen in the present case, was pleased to grant the concession of regular bail to the petitioners by imposing strict conditions, the present petition for grant of regular bail is allowed subject to their furnishing personal and surety bonds of a local surety each before the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned and also subject to their not tampering with prosecution evidence and also not influencing prosecution witnesses and also subject to the petitioners appearing before the trial Court on each and every date except on the date when their personal appearance is exempted by the trial Court and also subject to their not being required in any other case.

It is made clear that in case the petitioners violate any of the above-said conditions or indulge in any criminal activity again, then it would be open to the State to move an application for cancellation of the present bail order.

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.

(VIKAS BAHL)
JUDGE

December 01, 2021.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No