

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

212

CRM-M-365-2022 (O&M)
Date of decision : 12.12.2022

Shiva @ Kala

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Shivam Grover, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

CRM-36667-2022

For the reasons mentioned in the application, the same is allowed and copies of statements of complainant and his son who appeared before the Trial Court as PW-3 and PW-4, filed by the petitioner, are taken on record as Annexures P-3 and P-4.

CRM-39863-2022

For the reasons mentioned in the application, the same is allowed and copies of statements made by PW-1, PW-2 and PW-5 filed by the petitioner are taken on record as Annexures P-5 to P-7.

CRM-M-365-2022

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of regular bail in case FIR No.36 dated 18.01.2021 registered under Sections 379-B, 392, 395, 397, 412 and 201 of the Indian Penal

Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Police Station City Sonipat, District Sonipat.

The above-said FIR was registered on a complaint made by complainant-Farid Chand alleging that he is running a Dhaba under the name of Style 'Vaishno Dhaba' on Gohana Road, underneath Railway Bridge near Gol Market. On 16.01.2021 at about 09:30 p.m. 4/5 young boys came to his Dhaba. Out of them, 02 were armed with pistols snatched the cash of Rs.1500/- from his cash box and also snatched his mobile phone.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by co-accused. On the day of alleged incident, the petitioner was already in custody in other case i.e. FIR No.41 dated 19.01.2021. The present FIR was registered after a delay of 02 days. The material witnesses i.e. complainant-Farid Chand and his son Sandeep Kumar, who have been examined by the Trial Court as PW-3 and PW-4 respectively, do not support the case of the prosecution and turned hostile. The petitioner is in custody since 20.01.2021. Out of 21 prosecution witnesses, 07 have been examined so far. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

On the other hand, learned State opposed the present petition on the ground that the petitioner actively participated in the alleged offence and in his disclosure statement the petitioner submitted that he had destroyed the mobile phone of the complainant. The

petitioner is also involved in one other case under the Arms Act. Therefore, the petitioner does not deserve concession of regular bail and the present petition may be dismissed.

As far as involvement of petitioner in other case i.e. FIR No.41 dated 19.01.2021 registered under Section 25 of the Arms Act is concerned, learned counsel for the petitioner submits that the petitioner has already been acquitted in the said case vide judgment dated 08.06.2022 passed by the Trial Court.

I have heard learned counsel for the parties and gone through the paper-book.

Keeping in view the facts and circumstances of the case, custody period of the petitioner, the fact that the the material witnesses i.e. complainant PW-3 and his son PW-4 have turned hostile and also the fact that the trial likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

The petitioner-Shiva @ Kala is ordered to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

12.12.2022

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No