

222

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

**CRM-M-2605-2022 (O&M)
Date of Decision: 05.04.2022**

Ashok Masih

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gurcharan Dass, Advocate,
for the petitioner.

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

JASGURPREET SINGH PURI, J. (ORAL)

CRM-9787-2022

The present application has been filed for adding offences under Sections 395-B and 397 of the IPC in the heading and prayer of the main petition.

It has been submitted by learned counsel for the petitioner that at the time of presentation of challan, the provisions of Section 395-B & 397 of the IPC have also been added and therefore, necessary correction may be made in the head note and prayer of the main petition.

Mr. R.S. Thind, learned Deputy Advocate General, Punjab has submitted that he has no objection to the aforesaid prayer made by the learned counsel for the petitioner.

In view of the above, the present application is allowed and it is directed that the offences punishable under Sections 395-B & 397 of the IPC be added in the head note and prayer of the main petition and therefore, necessary correction be made accordingly.

CRM-9786-2022

Allowed as prayed for, subject to all just exceptions.

CRM-M-2605-2022

The present petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.327 dated 16.11.2021, under Sections 307, 379-B & 34 of the IPC (Sections 379-B & 34 of the IPC deleted and Sections 394, 395 & 411 of the IPC have been added later on) and Section 25 of the Arms Act, registered at Police Station Focal Point, Ludhiana. Later on Challan filed under Sections 307, 394, 395-B, 411 & 397 of the IPC and Sections 25, 54, 59 of the Arms Act.

It has been submitted by Mr. Gurcharan Dass, learned counsel for the petitioner that the petitioner is in custody since 05.12.2021 and the investigation of the case has already been completed and thereafter, the Police has already presented the Challan under Section 173 of the Cr.P.C before the competent Court. He further submitted that it is a case where the allegations are that some of the co-accused had committed a dacoity in a shop and the petitioner was not named in the FIR and he was only nominated on the basis of the disclosure statement made by the co-accused and as per the investigation and the report presented by the Police, the role only assigned to the petitioner was that he had received some part of the stolen property which was only one LCD. He also submitted that the

disclosure statement of the co-accused was not admissible in evidence and so far as the recovery is concerned, the same was also planted upon the petitioner. He further submitted that the petitioner is not a habitual offender and is not involved in any other case and has got clean antecedents and even otherwise also the investigation of the case has already been completed and no recovery is to be effected now from the petitioner, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. R.S. Thind, learned Deputy Advocate General, Punjab, on instructions from A.S.I. Sahib Singh, has submitted that it is correct that the petitioner is in custody since 05.12.2021 and the investigation of the case has already been completed and the Police has already presented the Challan under Section 173 of the Cr.P.C before the competent Court. He further submitted that the role assigned to the petitioner was that he had received one LCD which was a part of the stolen property. He further submitted that since the petitioner has received the stolen property so he is equally responsible for the aforesaid offence. So far as the other antecedents of the petitioner is concerned, as per instructions, he is not involved in any other case.

I have heard the learned counsel for the parties.

The investigation of the present case has already been completed and the Police has already presented the Challan under Section 173 of the Cr.P.C before the competent Court. The petitioner is not named in the FIR but has been nominated on the basis of the disclosure statement made by the co-accused. The role assigned to the petitioner is not that he has committed any dacoity but it was only to a limited extent that he has

received one LCD and the petitioner is not involved in any other case, therefore, considering the role of the petitioner in the present case and the fact that the investigation of the present case has already been completed and no recovery is to be effected from the petitioner, and therefore, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

05.04.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |