

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(210)

1. CRM-M-5376-2022
Gurpreet Singh @ GopiPetitioner

Versus

State of HaryanaRespondent

2. CRM-M-5584-2022
Gurcharan Singh @ GunnaPetitioner

Versus

State of HaryanaRespondent

Date of decision: - 21.04.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Anmol Partap Singh Mann, Advocate
for the petitioner in both the petitions.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions. The first petition has been filed by Gurpreet Singh @ Gopi i.e. CRM-M-5376-2022 and the second petition has been filed by Gurcharan Singh @ Gunna i.e. CRM-M-5584-2022.

Both the said petitions have been filed under Section 439

Cr.P.C. for the grant of regular bail to the petitioners in FIR No.133 dated

26.04.2020, under Sections 186, 188, 332, 353, 307 and 34 IPC and Section 25 of the Arms Act, 1959 (Section 216 IPC added later on), at Police Station Chandimandir, District Panchkula.

Learned counsel for the petitioners has submitted that in the present petitions, even as per the FIR, the petitioners were unarmed and no injury has been attributed to them. It is submitted that co-accused of the petitioners, namely, Harsimran Singh @ Simmu, who was armed with a country made pistol and had even fired, although the same did not cause any injury, has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 16.12.2021 passed in CRM-M-25926-2021. It is also submitted that case of the present petitioners is on higher footing than that of the said co-accused Harsimran Singh @ Simmu. It is also submitted that both the petitioners have already been custody for the last 1 year, 11 months and 15 days and there are as many as 32 prosecution witnesses, none of whom have been examined and thus, the trial is likely to take time.

Learned State counsel in compliance of the earlier order has produced on record the status report along with the custody certificates and the same are taken on record. Learned State counsel has opposed the present petitions for regular bail and has submitted that as per the custody certificates, both the petitioners are involved in other cases. It is also submitted that co-accused of the petitioners, namely, Dhruv Mohan Garg, had in fact fired and the same hit on the leg of the Head Constable and he was injured.

Learned counsel for the petitioners in rebuttal has submitted that even the said injury, which has been attributed to co-accused Dhruv Mohan Garg, is simple in nature. Learned counsel for the petitioner in rebuttal has relied upon the judgment of Hon'ble Supreme Court in **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, reported as 2012 (2) SCC 382, to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioners cannot be rejected solely on the ground that the petitioners are involved in other cases. The relevant portion of the said judgment 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.”

This Court has heard learned counsel for the parties and gone through the paper-book.

It is not in dispute that both the petitioners were unarmed and there is no injury attributed to them. Moreover, co-accused of the petitioners, namely, Harsimran Singh @ Simmu, who was armed with country made pistol and had even fired, although the same did not cause any injury, has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide order dated 16.12.2021 passed in CRM-M-25926-2021 and the case of the petitioners is on higher footing

than that of the said co-accused Harsimran Singh @ Simmu. Moreover, the petitioners have been in custody since 26.04.2020 i.e. a custody period of 1 year, 11 months and 15 days and there are 32 prosecution witnesses, none of whom have been examined and thus, the trial is likely to take some time.

Keeping in view the above-said facts and circumstances and as well as in view of the law laid down in **Maulana Mohd. Amir Rashadi's case (supra)**, the present petitions are allowed and the petitioners 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 cases which are only for the purpose of adjudicating the present bail petitions.

April 21, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes