

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-6882-2022 (O & M)****Date of decision: 16.12.2022**

Mustkeem Ali

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishal Sharm (Varusdeva), Advocate,
for the petitioner. petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)**CRM-M-41900-2022**

This is an application for correction in the headnote, Para 1 as well as in the prayer clause of the main petition as while mentioning Section 475 IPC a typographical error has been committed. Therefore, 'Section 475 IPC' may be read as 'Section 473 IPC'.

For the reasons mentioned in the application, the same is allowed. The Registry is directed to carry out the necessary amendments in the headnote, Para 1 and prayer clause of the main petition.

CRM-M-41902-2022

This is an application for placing on record the Commitment Order dated 06.01.2022 as Annexure P-4 and Zimni orders of the Trial Court as Annexure P-5.

For the reasons stated in the application, the same is allowed and the Commitment Order dated 06.01.2022, Annexure P-4 and Zimni orders of the Trial Court, Annexure P-5, are taken on record.

CRM-M-6882-2022

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.348 dated 02.10.2021 under Sections 382, 392, 379-B, 120-B and Section 475 (now be read as Section 473), 413 and 451 IPC (Added later on) and Sections 25, 54, 59 of the Arms Act registered at Police Station City Kharar, SAS Nagar, Punjab.

2. The brief facts of the case are that while police party was on patrolling duty, secret information was received that Shiv Chopra, Vijay Kumar, Mustkeen Ali (petitioner) and Salman Khan had formed a gang and were habitual of looting at gun-point. They were in possession of illegal weapons and would commit snatching in the areas closed to Kharar and on that day, they were likely to commit an offence for which they had got together on the backside of Jamuna Apartments. They were on separate motorcycles bearing No.PB-65-AC-3369 Make Hero colour Black and PB-65AP-7911 make Pulsar Black colour alongwith a Scooter bearing No. PB-27E-1100 Scooter White colour. If a raid was conducted, they could be apprehended with deadly weapons.

Based on the information, the FIR came to be registered against the accused persons. During the course of investigation, the petitioner came to be arrested.

3. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. No offence has been committed as alleged in the FIR. He is in custody since 03.10.2021 and none of the 16 the prosecution witnesses have been examined so far, and

therefore, the Trial of the present case is not likely to be concluded anytime soon. There are two other cases registered against him bearing FIR No.237 dated 29.09.2021 under Sections 392, 448, 506, 34 IPC and Sections 201, 379-B and 452 IPC (Added later on) and Sections 25-54-59 of the Arms Act at Police Station Sadar Kharar, District SAS Nagar (Punjab) in which he is in custody whereas in FIR No.307 dated 20.08.2021 under Section 379-B IPC registered at Police Station City Kharar, he is on bail. He, thus, contends that the petitioner be granted the concession of bail in the present case as well.

4. The learned counsel for the State, on the other hand, contends that the allegations against the petitioner and his co-accused are serious. He is a habitual offender. In the present case, two gold chains, one artificial chain, one pistol alongwith three live cartridges and three motorcycles were recovered from him. Therefore, the petitioner did not deserve the concession of bail looking at the serious nature of the allegations against him.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is in custody since 03.10.2021 and none of the 16 prosecution witnesses have been examined so far. In the other two FIRs registered against the petitioner, he has been granted the concession of bail in one case. The veracity of the allegations against the petitioner shall be adjudicated upon during the course of Trial. At this stage, the further incarceration of the petitioner is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Mustkeem Ali is ordered to be released on bail to the satisfaction of the Trial Court/Duty

8. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the cases referred to hereinabove.

9 In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

December 16, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No