

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.226

CRM-M-7579-2022 (O&M)
Date of Decision:27.07.2022

Sehzad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mohammad Arshad , Advocate,
for the petitioner.

Mr. N.S. Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

This is second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.208 dated 22.08.2021 under Sections 153-A, 295-A, 342 and 506 IPC registered at Police Station City Nuh, District Nuh (Mewat).

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody since 24.08.2021 and out of 27 cited witnesses, 08 have have been examined. He further submitted that it is a case where the petitioner was falsely implicated. He was not named in the FIR. Apart from the same, his name also did not surface in the statement under Section 164 Cr.P.C. made by the complainant. He further submitted that this is a second petition for grant of regular bail to the petitioner before this Court and his earlier bail petition was dismissed on 10.01.2022 and

thereafter there has been a change of circumstances because some of the material witnesses have been examined and they have not supported the prosecution case and they have turned hostile. He further submitted that the petitioner is a student and he has got no role to play in the present case. He also submitted that there was a delay of 01 year and 06 months in lodging of the present FIR. Learned counsel further submitted that as per the status report of the State, the main accused Abbu Bakar has been granted bail by the learned Sessions Court and therefore, the petitioner should also be considered for grant of regular bail.

On the other hand, learned Deputy Advocate General, Haryana has vehemently opposed the grant of regular bail to the petitioner. He submitted that in fact the petitioner is involved in one more similar kind of FIR that is one date prior to the present FIR, i.e. FIR No.126 dated 21.08.2021. In the aforesaid and the present FIR, the co-accused is the same person. He further submitted that the petitioner had filed regular bail petition in the aforesaid FIR i.e. No.126 dated 21.08.2021 and the same was dismissed by this Court by way of a detailed order dated 20.01.2022 and along with the same the petition filed for quashing of the said FIR was also dismissed by the same order and thereafter, he filed another petition for grant of regular bail in aforesaid FIR, which was again dismissed by a detailed order on 24.03.2022 by this Court.

Learned State counsel submitted that is a case where allegations against the petitioner were that he along with the co-accused had forcibly converted the complainant to a particular religion. He further submitted that the complainant alleged in the present FIR that the co-

accused had instigated him and his family members and lured him for giving money, job and to settle him. He also used derogatory remarks against the religion of the complainant, idol worship and Hindu Gods and Goddesses. He also instigated the petitioner against his religion and had also given Rs.7,000-8000/- in lieu of converting his religion. The co-accused then kept the minor children of complainant forcibly with him and put pressure on them to convert into his religion. Thereafter, the complainant with a lot of difficulties managed to rescue from the clutches of the co-accused in February 2020. It has further been stated in the FIR that co-accused-Abbu Bakar and his accomplice met him and they threatened him and said that if he does not become a Muslim then they will kill him. It has further been stated in the FIR that during his religion conversion through co-accused-Abbu Bakar, he came to know about name of one Kaleem Siddiqui and Global Peace Centre which is run by Abbu Bakar and through that he used to find poor and helpless kids and by luring them with money, land, property and marriage used to convert them into Islam

Learned State counsel further submitted that as per the FIR, the complainant escaped from the clutches of the co-accused in the month of February 2020 and the present FIR has been lodged on 22.08.2021 and therefore, the argument raised by the learned counsel for the petitioner that there was a delay of 1½ year is not correct. He further submitted that so far as period between February 2020 and the date of lodging of the present FIR is concerned, it has been stated in the FIR itself that the complainant escaped from the clutches of the co-accused then he left Nuh and started living at another place and that was the reason, the aforesaid delay of 1½

year was caused.

Learned State counsel further submitted that a sting operation was conducted and it was found that even the material was uploaded on YouTube channel as well. He submitted that so far as the role of the present petitioner is concerned, he was a person who was instigating the people for getting the religion converted and learned State counsel has also referred to affidavit filed by Deputy Superintendent of Police, Special Task Force, Gurugram, Haryana, whereby it has been stated that SIT was constituted by the Superintendent of Police, STF, Gurugram in the present case and the role of the petitioner has come forth in the said investigation. While referring to para 10 of the affidavit, he submitted that name and role of the petitioner has come forth in the disclosure statement of co-accused Abbu Bakar and the petitioner has been actively involved in alluring and instigating the vulnerable persons to change their religion. He has also been actively involved in the publishing of objectionable books which promote enmity between different religions, as he used to provide money for the same. Learned State counsel further referred to para 14 of the affidavit to state that the petitioner was involved in serious offence and if he is granted the concession of regular bail, then he may try to influence the witnesses and tamper with the evidence or he may abscond or flee from justice, which may delay the trial. He further submitted that the complainant in the present FIR has still not come to the Court for deposing and there is sufficient material available with the police to state that there is every likelihood that in case the petitioner is released on bail, he may abscond or may influence the witnesses. He further submitted that another FIR in which the petitioner

was denied bail by this Court twice is also on similar allegations but pertains to a different complainant and during the proceedings of the trial in the said FIR, the witnesses therein had turned hostile. Similarly in the present case, the witnesses, who have been examined, have also turned hostile but that itself cannot become a ground for grant of bail to the petitioner in view of magnitude and gravity of the offence. He further submitted that the trial is commencing fast and out of 27 witnesses, 08 have been examined and so far as the complainant is concerned, he is not traceable and even as per the FIR, he left the place after he managed to escape from the clutches of the co-accused. He further submitted that the petitioner was actively involved in the present offence and does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

Although, the petitioner is in custody since 24.08.2021 but the nature, magnitude and gravity of the offence involved in the present case would disentitle the petitioner for grant of regular bail. The argument raised by the learned State counsel that the petitioner was instrumental in alluring and instigating the vulnerable persons to change their religion based upon the contents of the FIR, coupled with the fact that the complainant has still not come forward to depose before the Court would mean that there is every likelihood that if the petitioner is released on bail, he may influence the witnesses does carry weight and cannot be ignored. Learned counsel for the petitioner has also brought to the notice of the Court that co-accused has been granted bail by the learned Sessions Court. This Court is of the view that mere the fact that the co-accused has already been granted bail by the

learned Sessions Court, does not vest any right with the present petitioner for grant of bail. There is another FIR on similar allegations against the petitioner which is just one day prior to the present FIR and this Court dismissed bail application of the petitioner twice on merits. Although spellings of name of petitioner in both the FIRs were slightly different but both the learned counsel for the parties have not disputed that the petitioner is the same one person.

Considering the nature, magnitude and seriousness of offence, the petitioner does not deserve the concession of regular bail and accordingly, the present petition is, hereby dismissed.

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

(JASGURPREET SINGH PURI)
JUDGE

27.07.2022
mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO