

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11608-2022
Date of Decision: 24.03.2022

Shajad Khan

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

JASGURPREET SINGH PURI, J

The present is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.126 dated 21.08.2021, under Sections 153-A, 295-A, 298, 323, 406 and 506 IPC, registered at Police Station Rozka Meo.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 24.08.2021 and all the material witnesses have been examined who have turned hostile. He further submitted that the name of the petitioner was mentioned in the FIR and the complainant himself stated in the examination that his signatures were obtained on blank paper and, therefore, the petitioner has been falsely implicated. He further submitted that the complainant did not know the petitioner and that the petitioner is only a student. He further submitted that earlier also the petitioner had filed a petition for bail vide CRM-M-46925-2021 which was

dismissed on 10.01.2022 vide Annexure P-5. The aforesaid bail petition was dismissed alongwith the other petition filed by the petitioner for quashing of the FIR which was also dismissed by the same order. He further submitted that thereafter the witnesses have been examined who have turned hostile and, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana has submitted that 4 witnesses have been examined and they have turned hostile and 6 private witnesses are yet to be examined. and, therefore, out of 34 cited witnesses 4 have been examined. He further submitted that so far as the ground taken by the learned counsel for the petitioner that the witness has turned hostile, the same cannot become a ground for grant of regular bail to the petitioner in view of the fact that the statement made by the witness PW1 Manoj who is the complainant in the present case has to be read in its entirety. He further submitted that vide Annexure P-6 which is the statement of PW-1 complainant Manoj the said witness during cross examination had rather stated voluntarily that he was made to read Kalma and thereafter he again said at the same breath that he read the same with his own will. Thereafter, he stated that right now he is a Hindu and when the complainant was confronted with his own statement under Section 164 Cr.P.C, then he stated that the same was given by him under police pressure. Learned Additional Advocate General, Haryana further submitted that it is a case where the allegation by the complainant that he was forcibly converted into any religion and during cross-examination he himself stated that he was made to read Kalma and thereafter he stated that he did it on his own will and, therefore, the arguments raised by the learned counsel for the petitioner that the

complainant has turned hostile cannot itself become a ground for grant of regular bail to the petitioner. He further submitted that even 6 private witnesses are yet to be examined and there is every apprehension that in case the petitioner is released on bail, then he may either abscond or may influence the remaining witnesses. He further submitted that when the petitioner filed a regular bail petition earlier before this Court along with other petition for quashing of the FIR, the same was dismissed by this Court vide Annexure P-5 by passing a detailed order by discussing the entire facts and background of the case.

I have heard the learned counsel for the parties.

The petitioner is in custody from 24.08.2021. Only 4 prosecution witnesses have been examined including the complainant and the complainant has turned hostile as per the learned counsel for the parties and as per Annexure P-6. Six private witnesses are yet to be examined. The argument raised by the learned counsel for the petitioner that since the material witnesses have been examined including the complainant, he may be considered for the grant of regular bail, cannot become a ground for grant of bail to the petitioner in view of the fact that a perusal of the cross examination of the complainant Manoj would show that he had voluntarily stated that he was made to read Kalma and thereafter, at the same breath he had stated that he read it on his own will. It is a settled law that the creditability of a hostile witness cannot be ignored in totality but the part of the statement can be considered at the time of adjudication of the case. Earlier this Court had passed a detailed order when the petitioner had filed two petitions pertaining to grant of regular bail and that of quashing of the FIR itself. The learned Additional Advocate General, Haryana has also

submitted that 6 more private witnesses are yet to be examined. The apprehension expressed by the learned State counsel that there is every possibility that in case the petitioner is released on bail, then he may influence the remaining witnesses or even may abscond from justice cannot be ignored. Therefore, considering the totality and circumstances of the present case, I do not deem it fit and proper to grant bail to the petitioner.

Consequently, the present petition is 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.

24.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No