

239

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

Date of decision: 28.04.2022

1. CRM-M No.12151 of 2022 (O&M)

Jasbir Singh

....Petitioner

Versus

State of Haryana and another

....Respondents

2. CRM-M No.10258 of 2022 (O&M)

Sakshi Ahuja

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Momi, Advocate
for the petitioner (in CRM-M-12151-2022)

Mr. Vishal Aggarwal, Advocate
for the petitioner (in CRM-M-10258-2022)

Mr. Chetan Sharma, AAG, Haryana.

Mr. Rishabh Dhiman, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in these petitions is for grant of regular bail to the petitioner namely Jasbir Singh and Sakshi Ahuja, under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.341 dated 16.07.2019, for offence punishable under Sections 323, 406, 420, 120-B of the Indian Penal Code, 1860 (in short 'IPC') (Section 379-B IPC added later) registered at Police Station Shahabad, District Kurukshetra.

Counsel for the petitioner – Jasbir Singh, has argued that the petitioner is in custody for the last 01 year, 05 months and 02 days, challan stands presented and he is not involved in any other case.

Counsel for the petitioner – Sakshi Ahuja, has submitted that the petitioner is in custody for the last 07 months and 05 days and though, she is involved in some other cases but is on bail.

Counsel for the petitioners have argued that as per the allegations in the FIR, registered at the instance of Amit Kumar, it is stated that 07 persons including the petitioner and the main accused namely Rajesh @ Candy Baba, are alluring the innocent people for providing/selling gold at cheaper price. It is further stated that the complainant was known to the petitioner Jasbir Singh, who introduced him with Rajesh @ Candy Baba on 16.09.2018 by taking him to village Sharifgarh where he was having a Dera. After having talks with regard to the sale of 1.00 Kg of gold @ Rs.28.00 lacs, it was informed that Rajesdh @ Candy Baba is having a licence to sell the gold in a legalized manner. Thereafter, after 15 days, the petitioner Jasbir Singh came to the victim and again took him to the Dera of Rajesh @ Candy Baba where he allured the complainant that if he will order 3-4 Kgs of gold, he will give 1.00 kg of gold @ Rs.27.00 lac, which will be less than the market rate. On such allurement, on 04.11.2018 the victim gave Rs.1.8 crore to Rajesh @ Candy Baba, Paras, Priya and Sakshi. It is further submitted that later on, neither the gold was supplied nor the money was returned and rather 02 cheques were given for Rs.50.00 lacs each by Rajesh @ Candy Baba and later on, the cheques were also dishonoured. Again the complainant along with his friend Arun went to

the Dera of Candy Baba where the co-accused Priya was sitting there and she has shown a bag full of money and asked him to return the cheques so that money be given to him. On this, the complainant gave the cheques to Priya but immediately, she torn her t-shirt and started shouting that she will involve the complainant in some false case of rape. In the meantime, some security guards and other accused persons also came there and gave beatings to the complainant and his friend. The said incident was also recorded in the CCTV footage. One police man also came and threatened that if they do not left the premises, they will be sent to Jail. Counsel for the petitioner – Jasbir has also submitted that except for the allegation that he has introduced the victim with Rajesh @ Candy Baba, there is no allegation that when the money was given, he was present in his Dera. It is further submitted that the petitioner is in long custody of 01 year, 05 months and 02 days.

Counsel for the petitioner – Skashi has argued that the petitioner is a lady having minor special child and she was also under the influence of Rajesh @ Candy Baba, who allured her to be in live-in relationship and in that pretext, she was visiting the Dera of Rajesh @ Candy Baba.

Counsel for the petitioner has also submitted that though, it is stated by the complainant that the petitioner was present when the amount was handed over to Rajesh @ Candy Baba, however, there is no allegation that any amount was entrusted to the petitioner. It is further argued that the petitioner – Sakshi, is in custody for the last 07 months and 05 days; investigation is complete and challan stands presented.

It is common argument of both the counsel for the petitioners that since the charges have not been framed, it will take long time in conclusion of the trial.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail of both the petitioners.

Counsel for the State has also submitted that on an earlier occasion, the anticipatory bail of both the petitioners Jasbir and Sakshi were dismissed by this Court noticing the fact that they are involved in number of other cases and their custodial interrogation is required. It is further submitted that even the order dismissing the anticipatory bail of both the petitioners was upheld by the Hon'ble Supreme Court.

Counsel appearing for the complainant/respondent No.2 has, however, filed an affidavit that he has some settlement with the petitioner – Jasbir Singh and has no objection if bail is granted to him.

A perusal of the affidavit states that the petitioner has not done any fraud with the victim and he has no objection if he is released on bail.

In reply, counsel for the petitioner has argued that after dismissal of the anticipatory bail, both the petitioners have surrendered and after their custodial interrogation, the police has conducted the investigation and submitted the report under Section 173 Cr.P.C. and has stated that the petitioner – Jasbir Singh is in custody for the last 01 year, 05 months and 02 days whereas the petitioner – Sakshi Ahuja is in custody for the last 07 months and 05 days. It is further submitted that since the charges have not been framed, it will take long time in

conclusion of the trial as 29 witnesses are to be examined, after framing of the charge. Lastly, it is submitted that the criteria for deciding the anticipatory bail and regular bail, is on different footing and mere fact that anticipatory bail of the petitioner was dismissed by this Court, is not a bar to grant the concession of regular bail to the petitioners.

Without commenting anything on merits of the case, considering the fact that the petitioner – Jasbir Singh is in custody for the last 01 year, 05 months and 02 days whereas the petitioner – Sakshi Ahuja is in custody for the last 07 months and 05 days; the custodial interrogation of the petitioners is not required; charges have not yet been framed and the conclusion of the trial will take some time, both these petitions are allowed and the petitioner namely Jasbir Singh and Sakshi Ahuja, are directed to be released on bail subject to their furnishing bail bonds and 02 surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

A photocopy of this order be placed on the file of other connected case.

(ARVIND SINGH SANGWAN)
JUDGE

28.04.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No