

(202) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16554-2022

Date of Decision: 06.08.2022

SHAKIR ALIAS KALA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Mazlish Khan, Advocate for the complainant.

JASJIT SINGH BEDI, J.

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.188 dated 21.12.2021 under Sections 323, 342, 379-A, 34, 506 IPC, Section 25 of Arms Act, 1959 and (Sections 379-A, 34 IPC deleted) and final report under Section 173 Cr.P.C. has been filed under Section 25 of Arms Act, 1959 and Sections 379-B, 323, 342, 506, 406, 420, 467, 468, 471, 120-B IPC with Police Station Sector Uttawar (Annexure P-1/T).

2. The present FIR came to be registered at the instance of Javid Nahar son of late Sh. Illiyas Nahar, who stated that his family owned a transport company, which was looked after by his elder brother Rashid Nahar in the name of A.K. Transport, which was based out of Durgapur Court Mor, West Bengal. On 03.11.2021, a phone call came on the mobile phone of his

brother that if there was anything to be transported towards Delhi or Haryana, then a vehicle was going empty. His brother got loaded iron rods of Eastern Road Lines of Mark SRMB Shrijan Pvt. Ltd. from their transport company A.K. Transport in truck bearing registration No.RJ14GL1623. The iron rods were being transported from Durgapur for Gurugram Hari Iron Trading Pvt. Ltd. The cost of the iron rod was about Rs.16,19,936/-. The above truck and its driver did not reach the destination. They started conducting search of the truck, the driver and the goods at their level and found that the truck was parked in village Ghudabali, District Palwal, Haryana. In fact, the truck owner, its driver and his companions had cheated them by showing a fake number plate, RC and PAN Card and got loaded the goods and had sold them at village Ghudabali, District Palwal, Haryana. Upon their inquiry they came to know that the real owner of the truck was Asgar son of Aas Mohammad. When on 20.12.2021, they reached Asgar, he called his relatives namely, Shakir alias Kala son of Rehman (the present petitioner), Shahzad son of Rahim and 3-4 unknown persons, who had beaten them. They were shown country-made pistols, locked up in a room forcibly and a sum of Rs.12,000/- was snatched from his pocket. They were finally told that they would not get their goods back and would be killed, if any complaint is given to the Police.

3. The learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. In fact Asgar, the owner of the truck is the main accused and the beneficiary and has been wrongly found to be innocent during investigation. The said Asgar made a statement to the Police that the truck in question had been sold by him to the present petitioner without showing any documentation whatsoever. In fact, an

attempt was made to involve his brothers namely, Shehzaad and Amir who were, however, exonerated. The petitioner in fact has wrongly been shown to be the driver of the truck, despite the fact that he does not possess a driving licence. No test identification parade was held to fix the liability of the petitioner and his co-accused. It is lastly contended that the petitioner has been in custody since 04.01.2022, the challan was presented on 04.03.2022 and none of the 16 prosecution witnesses have been examined so far. Therefore, the petitioner prays for the grant of concession of regular bail.

4. On the other hand, the learned State counsel submits that the petitioner in fact is one of the main accused and is said to be the driver of a truck. As per Police investigation, he is involved in two other cases i.e. FIR No.566 of 2019 under Sections 407, 380, 420 IPC at Police Station Tauru, District Nuh and FIR No.250/2021 under Sections 342, 394, 411, 120-B IPC at Police Station Meeru, District Meerut. Being a habitual offender, he does not deserves the concession of regular bail. However, he does concede that in both these cases, he has been granted the concession of bail.

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

6. Admittedly, the petitioner has been in custody since 04.01.2022 and none of the 16 prosecution witnesses have been examined so far. In the other cases, the petitioner has been granted the concession of bail in FIR No.566 of 2019 vide order dated 09.12.2019 (Annexure P-6) and in FIR No.250/2021 vide order dated 31.03.2022 passed by the learned Sessions Judge, Meerut.

7. In view of the above, as the petitioner has undergone a significant period of custody and the trial is not likely to be concluded in the near future, the future incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

06.08.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No