

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

**1** **CRM-M-38134-2021(O&M)**  
**Date of Decision : July 15, 2022**

**ANKIT** .....Petitioner

***VERSUS***

**STATE OF HARYANA** .....Respondent

**2** **CRM-M-44770-2021**

**DEVENDER** .....Petitioner

***VERSUS***

**STATE OF HARYANA** .....Respondent

**3** **CRM-M-25928-2022**

**MEHARBYAN @ MERRI @ MARRY** .....Petitioner

***VERSUS***

**STATE OF HARYANA** .....Respondent

**4** **CRM-M-16617-2022**

**ANNA JEMAL** .....Petitioner

***VERSUS***

**STATE OF HARYANA** .....Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

**Present :** Mr. Anuj Arya, Advocate,  
for the petitioner in CRM-M-38134-2021.

Mr. Akashdeep Singh, Advocate,  
for the petitioner in CRM-M-44770-2021.

Mr. Ramnish Puri, Advocate,  
for the petitioner in CRM-M-25928-2022.

Mr. Robin Singh Hooda, Advocate,  
for the petitioner in CRM-M-16617-2022.

Mr. Naveen Singh Panwar, DAG, Haryana.

**JASGURPREET SINGH PURI. J. (Oral)**

All the four petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioners in case FIR No.224 dated 8.7.2021 under Section 370 IPC, Sections 3, 4, 5 and 7 of Immoral Traffic Act, 1956 Section 14 of Foreigners Act, 1946 and Sections 3 and 12 of Passport Act, 1967 registered at Police Station Murthal, District Sonipat and the same are being taken up together with the consent of the learned counsels for the parties since they arise from the same FIR.

CRM-M-38134-2021 and CRM-M-44770-2021 were earlier heard but were kept for rehearing since the State was required to file additional affidavit but the same was not filed. Thereafter the State has filed additional affidavit dated 8.7.2022 in CRM-M-44770-2021 by the Additional Superintendent of Police, Sonipat which is taken on record.

The present FIR was lodged on the basis of the information received by the police that three dhabas/restaurants/hotels, namely, Happy Dhaba, Raja Dhaba and Hotel Westine, Murthal G.T.Road were doing the business of prostitution and if an immediate raid is conducted then the ladies and pimps can be apprehended. Thereafter, team was constituted under the supervision of SDM and District Child Protection Officer after contacting the Deputy Commissioner, Sonipat. Three different teams were constituted and all the three teams raided the

aforesaid three dhabas/hotels. Team No.1 conducted raid at Happy dhaba under the supervision of Inspector/SHO Arun Kumar comprising other police officials. Team No.2 conducted raid at Raja dhaba and team No.3 conducted raid at Westine hotel head by Inspector/SHO Parmila, Women Police Station, Sonipat. As per the allegations in the FIR when the raid was conducted at Happy dhaba then a decoy witness/bogus customer in civil dress was given currency note of Rs.500/- and the same was recovered from one Ombir co-accused. Thereafter on the basis of his disclosure statement the name of one Devender Kumar was nominated, who is one of the petitioners in the present cases. Similarly when the raid was conducted at Westine hotel then the decoy customer/bogus customer was handed over Rs.500/- which was recovered from one Ankit who was the Manager of the Hotel. The aforesaid Ankit is also one of the petitioners in the present cases. The other two petitioners in the present set of cases are Meharbyan @ Merri @ Marry and Anna Jemal who were also apprehended from the same hotel i.e. Westine hotel as being customers. These two ladies are foreign nationals. Since the present set of four cases pertained to the aforesaid four persons, the role of these four petitioners are discussed as follows:-

1                   Ankit in CRM-M-38134-2021.

The learned counsel for the petitioner has submitted that it is a case where the allegations against the petitioner are that he was the Manager of one Westine hotel and the currency note of Rs.500/- was recovered from him which was given to him by the decoy witness. He submitted that he is in custody from 8.7.2021 and investigation of the

case has been completed and challan has been presented on 4.9.2021 and the offence under the provisions of Section 370 IPC and the Immoral Traffic Act was not attracted in view of the facts and circumstances of the case. He further submitted that Section 370 IPC pertains trafficking of persons and similarly Sections 3, 4, 5 and 7 of the Immoral Traffic Act, 1956 also pertains to keeping a brothel or allowing premises to be used as a brothel and making earnings out of it or for procuring or inducing the persons for the sake of prostitution. He submitted that during the investigation or even at the time of conducting raid there was no such activity detected anywhere and there is nothing on the record to show that the other persons, who were arrested including the ladies were either indulging in an immoral activity or they were preparing to do so. He further submitted that was the reason that there were 12 females who are accused in the present case and out of which 9 have been discharged by the police and the remaining 3 were discharged under the Immoral Traffic Act but they are still charged for the violation of the Passport Act, 1967 and the Foreigners Act, 1946. He submitted that in view of the aforesaid position which has come up during investigation, no offence was made out against the petitioner since the ingredients under the IPC and the Immoral Traffic Act were not fulfilled. He further submitted that be that as it may, the petitioner is already in custody for more than one year and the trial of the case may take long time and, therefore, he may be considered for the grant of regular bail.

2                      Devender in CRM-M-44770-2021.

As per the allegations he was nominated on the basis of the

disclosure statement made by co-accused, namely, Ombir from whom Rs.500/- note was recovered which was given to him by the decoy witnesses/bogus customer.

The learned counsel for the petitioner has submitted that in the present case the petitioner is in custody from 9.7.2021 which is more than one year and investigation of the case is complete and challan has been presented and thereafter even a supplementary challan was also presented. He submitted that firstly, the petitioner is having clean antecedents and is working in police force as STF and his name has been nominated on the basis of the disclosure statement of co-accused which is not admissible in evidence. Secondly, the prosecution does not have any other sufficient material available to connect the petitioner with the present offence apart from the aforesaid disclosure statement of the co-accused. He submitted that as per the prosecution there were some telephonic calls between the petitioner and the other co-accused, namely, Ombir but the mere fact that the petitioner and the aforesaid person had exchanged phone calls cannot raise any presumption that it was in furtherance of the present offence and it is only on the basis of the suspicion and the disclosure statement of the co-accused that his name has been nominated. He further submitted that be that as it may, the petitioner has already faced incarceration for more than one year and no sufficient material has been mentioned in the challan presented by the police except for the aforesaid telephone calls. He submitted that the maximum sentence under the Immoral Traffic Act is 7 years. He further submitted that in view of the aforesaid facts and circumstances especially

considering the custody of the petitioner, he may be considered for the grant of regular bail.

3           Meharbyan @ Merri @ Marry and Anna Jemal in CRM-M-25928-2022 and CRM-M-16617-2022 respectively.

Both the petitioners are ladies and are foreign nationals. The learned counsels for the petitioners in both the petitions have submitted that both the petitioners have been exonerated under the Immoral Traffic Act and Section 370 IPC but they are being charged only under the Foreigners Act and Passport Act. Both the learned counsels submitted that the petitioners are holding valid passports, which is valid till 2024 in the case of Anna Jemal and 2023 in the case of Meharbyan @ Merri @ Marry but a few days prior to the present alleged incident their visas had expired. They submitted that both the petitioners undertake to submit and surrender their respective passports before the learned trial Court/Magistrate.

The learned State counsel on instructions from DSP Vipin Kadian who is the investigating officer and is present in the Court alongwith the record has submitted that it is correct that petitioner-Devender is in custody from 9.7.2021 and the remaining petitioners are in custody from 8.7.2021 and after completion of the investigation, challan was presented in the Court on 4.9.2021 and thereafter one supplementary challan was also presented under Section 173(8) of Cr.P.C. He submitted that it is correct that out of the 12 females who were accused in the present case 9 have already been exonerated and the remaining 3 including the present 2 petitioners nothing was found against them under

the Immoral Traffic Act and Section 370 IPC and they are still facing prosecution under the Foreigners Act and Passport Act as they did not submit their passports to the police even during the course of investigation and they were not having a valid visa. He has also submitted that there is other sufficient material available with the police but with regard to the phone conversation the same did not become a part of the challan because the other documents including the WhatsApp chat were still pending with the FSL. He has, therefore, opposed the grant of bail.

I have heard the learned counsels for the parties in all the four cases.

So far as the two females petitioners, namely, Meharbyan @ Merri @ Marry and Anna Jemal are concerned, as per the submissions made by the learned counsels for the petitioners as well as by the learned State counsel, they have already been exonerated under the provisions of Immoral Traffic Act and Section 370 IPC but now they are facing prosecution only under the Foreigners Act and Passport Act. They have already faced incarceration for more than one year. The learned counsels for the petitioners in both the cases have undertaken that they will deposit the passport before the learned trial Court/Magistrate.

In view of the aforesaid position, this Court deems it fit and proper to grant bail to both the petitioners.

Consequently, both the petitions i.e. CRM-M-25928-2022 and CRM-M-16617-2022 are allowed. The petitioners are ordered to be released on bail on furnishing of bail bonds and surety bonds to the

satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, there will be an added condition for the grant of bail.

The petitioners will be released on bail subject to submission of their original passports before the learned trial Court/Magistrate.

So far as the petitioner-Devender Kumar is concerned, he was nominated on the basis of disclosure statement made by co-accused, namely, Ombir and as per the affidavit filed by the State, there were 11 calls and 91 calls from two mobile numbers inter se between the aforesaid Ombir and the petitioner from 8.5.2021 to 8.7.2021 which were the date of the alleged incident. However, nothing is clear from the affidavit as to what was the contents of the conversation between the parties. As per the learned counsel for the parties, they were not made a part of the challan since the report from the FSL was awaited particularly pertaining to WhatsApp chat. The petitioner has clean antecedents and is not involved in any other case and has already faced incarceration for more than one year.

In view of the aforesaid position, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the petition i.e. CRM-M-44770-2021 is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

So far as the petitioner-Ankit is concerned, he was allegedly

the Manager of Westine hotel and he is also in custody from 8.7.2021. it has also been stated by the learned State counsel that out of 12 females who were accused in the present case, 9 have already been discharged fully and the remaining 3 have already been exonerated under the Immoral Traffic Act and under the IPC but they are facing prosecution under the Foreigners Act and Passport Act. The learned counsel for the petitioner has raised an argument that even if a currency note of Rs.500/- was found from him especially in the face of the aforesaid facts and circumstances, no offence was made out qua him. The argument raised by the learned counsel for the petitioner seems to be carrying weight especially in view of the fact that he has faced incarceration for more than one year and the investigation of the case has been completed and the challan has been presented.

Consequently, the petition filed by petitioner-Ankit deserves to be allowed.

In view of the above, the petition i.e. CRM-M-38134-2021 is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petitions only.

**(JASGURPREET SINGH PURI)**  
**JUDGE**

**July 15, 2022**  
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|----------------------------|---|--------|
| Whether speaking/reasoned. | : | Yes/No |
| Whether Reportable.        | : | Yes/No |