

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(211)

1.	CRM-M-36460-2022	
Krishan @ Kachhu	Versus	Petitioner
State of Haryana		Respondent
2.	CRM-M-34257-2022	
Bhim @ Happy	Versus	Petitioner
State of Haryana		Respondent

Date of decision: - 26.08.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gourav Jain, Advocate,
for the petitioner in both the petitions.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions. The first petition has been filed by Krishan @ Kachhu i.e., CRM-M-36460-2022 and the second petition has been filed by Bhim @ Happy i.e., CRM-M-34257-2022.

Both the said petitions have been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioners in FIR No.207 dated 12.05.2022, registered under Sections 148, 149, 323 and 326 IPC (Sections 148 and 149 IPC have been deleted and Sections 326 and 34 IPC have been added, later on), at Police Station City Tohana, Tehsil

Tohana, District Fatehbad.

Learned counsel for both the petitioners has submitted that in the present case, petitioner Krishan @ Kachhu is in custody since 03.06.2022 and petitioner Bhim @ Happy is in custody since 06.06.2022 and the investigation is complete and the challan has been presented and there are total 18 witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that as per the allegations in the FIR, petitioner Bhim @ Happy has not been attributed any specific injury and only a stick (*danda*) has been recovered from the said Bhim @ Happy. With respect to petitioner Krishan @ Kachhu, it has been submitted that the said Krishan @ Kachhu has been attributed two injuries i.e., one on the left hand and another on the lower back of the complainant (both non-vital parts of the body), which is grievous in nature, attracting the offence of Section 326 IPC. It is submitted that co-accused of the petitioner, namely, Sidharth, who has also been attributed a similar injury on the back of the complainant, which was grievous in nature, has been granted the concession of regular bail by this Court vide order dated 01.08.2022 passed in CRM-M-32454-2022 and the case of the present petitioners is on a similar footing as that of said co-accused Sidharth.

Learned State counsel has opposed the present petitions for regular bail and has submitted that petitioner Krishan @ Kachhu is involved in one more case. It is further submitted that since offence under Section 149 IPC is also attracted in the present case, thus, only specific

role of the petitioners is not to be considered and the whole incident has to be taken into consideration.

Learned counsel for the petitioner, in rebuttal, has submitted that Section 149 IPC in the present case has been deleted and the other case registered against petitioner Krishan @ Kachhu is under Section 323 IPC and in the said case, he is already on bail and has relied upon the judgment of Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**”, ***reported as 2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and gone through the paper-book.

Petitioner Krishan @ Kachhu is in custody since 03.06.2022 and petitioner Bhim @ Happy is in custody since 06.06.2022 and the investigation is complete and the challan has been presented and there are total 18 witnesses, none of whom have been examined, thus, the trial is likely to take time. Petitioner Bhim @ Happy has not been attributed any

specific injury as per the FIR. Petitioner Krishan @ Kachhu has been attributed two injuries i.e., one injury on the left hand which has been declared to be simple in nature and another on the lower back of the complainant, which is stated to be grievous in nature. Co-accused Sidharth to whom also the grievous injury has been attributed on the back of the complainant has been granted the concession of regular bail by this Court vide order dated 01.08.2022 passed in CRM-M-32454-2022 and the cases of the present petitioners are on a similar footing as that of said Sidharth.

Keeping in view the above-said facts and circumstances, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present cases which are only for the purpose of adjudicating the present bail petitions.

It is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioners.

August 26, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
No